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BRIEF

presented to

THE ONTARIO COMMITTEE
ON TAXATION

by the

ROMAN CATHOLIC BISHOPS
OF ONTARIO

JANUARY 1964

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Brief

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PREAMBLE

The Roman Catholic Bishops of Ontario are pleased to respond to the invitation of the Ontario Committee on Taxation by presenting this brief. From this frank expression of our views, the Committee will, we hope, find some help in its important and arduous assignment. We do recognize the complexity as well as the importance of the work entrusted to your committee by the Government of Ontario. You will, no doubt, soon have personal experience of the truth in remarks made by Pius XII some years ago to the Congress of the International Institute of Public Finance:

> "Many people, in fact too many people, with little more than amateur knowledge of economics and politics tackle the problems of finance and taxation with a degree of ardour and lighthearted zeal that is only surpassed by their incompetence. Motivated by self-interest, partisan spirit, or mere sentiment rather than by reason, they seem hardly to suspect the necessity of thorough investigation, patient research, and rigorous comparative study of factual data to unravel the complexities of fiscal problems."[1]

Our intention, then, is not to enter into the technical details of taxation policy for we claim no special competence in this area. Yet we welcome the opportunity to review the general principles which, we sincerely believe, should underlie any just and effective system of taxation. We shall have occasion also to comment upon tax policies and arrangements which are more directly connected with moral and religious interests, leaving it, as is proper, to competent government authorities aided by their expert technical advisers to see how these principles may be best worked out in practice.

The power to tax, like the police power, is clearly essential for any kind of progress towards the goals of a modern civil society. The lessons of history make it equally clear, however, that both of these necessary powers — to tax, and to coerce — hold within themselves the latent seeds of possible corruption and abuse. Power without responsibility, power uncontrolled by sound and coherent principle is an agent of destruction like water or fire beyond control. The power to tax is no exception to this rule. The forces of nature under proper restraint are vital ministers to human need. The power to tax, likewise, under the control of moral principle,

1. *Catholic Mind,* March 1949, p. 189.

supported by the public consensus and exercised by responsible officials, is an absolute necessity for the operation of a free and productive society.

A discussion of basic principles, then, is eminently practical in any thorough tax investigation, since taxation is an exercise of state power of great consequence for the common good.

Principles, to be sure, are not enough. The exacting business of making concrete applications calls for a vigourous exercise of the virtue of political prudence. Expert knowledge in the economic, legal and social fields is an indispensable requirement for this kind of prudence. But it still remains true that without the guidance of principles, expediency, born of the conflict of private interest, will produce nothing more than the confused compromise of competing power. The tax structure will in the end be erected and indeed constantly modified according to the specifications of the loudest of the pressure groups as they move in and out of positions of economic and political strength.

BASIC PREMISES OF TAX JUSTICE

An American tax expert, author of a recent critical book on the confused state of the theory of taxation, has stated:

> "Any intelligent thinking on taxes eventually reaches the ultimate purpose of life on this planet as each one of us conceives it."[2]

There is more than a grain of truth in this statement. Our answer to the questions: What is man? What is his nature, his destiny, his relationship to the community of his fellowmen? will certainly determine the broad lines of our philosophy of taxation. In fact, there can be no coherent or logical set of norms on which to base tax policy without some kind of an answer to these questions. More than that, tax policy cannot achieve justice without constant referral back to sound basic principles. Secondary norms such as "ability to pay" or "equality of treatment" or "incentive for expanding production" are valid and consistent with each other only when brought into harmony by reference to more basic and fundamental norms. Much of the confusion evident in current literature on the application of principles of taxation is due, we believe, to the tendency to adopt one or other of these proximate or secondary norms as though it was absolute or fundamental. Secondary norms are valid guides for tax policy only insofar as they are subordinated to primary principles.

Fortunately for us there exists in our country a public consensus on these primary principles, especially on the role of man in his relationship to the state. By and large we have an accepted and acceptable answer to our question. Ontario's *Code of Human Rights* begins with this preamble:

> "Considering that the recognition of the dignity inherent in all the members of the human family and of their equal and inalienable

2. LOUIS EISENSTEIN, *Tax Law Review*, v. 18, no. 1, p. 22, New York University School of Law, A Symposium of Eisenstein's book *The Ideologies of Taxation*, N.Y. Ronald Press 1961.

rights constitutes the foundation of liberty, justice and peace in the world . . . "[3]

Our institutions are permeated with the Judaeo-Christian concept of man as a creature with God-given rights and duties and an eternal destiny. Our laws, customs, and constitutions are the heritage of that tradition. Even those who do not believe in God live on the capital of this tradition. Without it there is no effective and lasting principle of social order left but naked force. A free society is not then a merely political contrivance that can be organized and maintained by purely political techniques. It is more basically a moral and spiritual undertaking. Political freedom rests on the self-discipline of a determining number of the members of society. That is why the agencies such as the churches and schools which foster and promote moral progress and discipline should meet with cooperation rather than hindrance in their work. No free society that wants to remain free can be indifferent to the spiritual and moral formation of its citizens.

As former Premier Leslie Frost has pointed out:

> "It is not just tough laws that make men and women do the right, but obedience to the law which comes, not from fear of sanctions, but rather from a desire to respect the dignity and rights of their fellow citizens, regardless of race, creed or colour."[4]

The public consensus in our country, to which we have referred above, holds firmly that man is not the creature of the state. Man does not receive from the state his fundamental rights to life and liberty and the opportunity to grow and develop his own being towards its perfection. While the state may control man in the exercise of his inalienable rights in view of the general welfare, the state exists in the last analysis for the protection of those rights and not for their denial. The state has its own high destiny and a lofty mission to foster and, if need be, provide those conditions, cultural and material, in which the human person may flourish. All our institutions, family, school, labour unions, charitable organizations, laws, and government rest finally on our concept of man as a responsible being with an intellect to judge and a free will to act and a right to the opportunity for his fullest possible development.

Within the reasonable limits of this brief we cannot hope to expound an entire social philosophy but we do wish to set forth those principles which have special relevance to a philosophy of taxation. We shall have to set forth briefly a number of propositions, any one of which could form the subject matter of a lengthy treatise.

THE RIGHTS OF MAN

Every human being is a person, that is, he possesses intelligence and free will. For this reason he has rights and duties not assigned to him by any

3. *Statutes of Ontario,* 1961-62, Chap. 93.
4. Quoted in "Human Rights Are In Your Hands", publication of The Ontario Human Rights Commission, Toronto, August 1961.

human agency but flowing directly from his nature. These rights are therefore universal, inviolable and inalienable.

Among these rights are the right to life, to bodily integrity, and to the means which are suitable for the proper development of life. These means are primarily food, clothing, shelter, rest, care of health, and protection of the family. In addition to this a human person has also the right to security in circumstances of sickness, inability to work, widowhood, old age, unemployment, and, in general, when he lacks the means of subsistence through no fault of his own.

The proper development of the human person requires that he share in the benefits of culture. This need to share in the benefits of culture establishes the right to a basic education with access to technical or professional training in keeping with the stage of educational development in the country to which he belongs.

Other rights that flow from the imperative needs of the human personality are the right to honour God according to the dictates of an upright conscience and the right to profess religion privately and publicly; the right to set up a family; the right to free initiative in the economic sphere and the right to work; the right to decent working conditions in which health and morals are protected; the right to a just wage sufficient in proportion to the available resources to provide a standard of living in accord with human dignity; the right to private property even in the means of production; the right of assembly and association.

It is encouraging to note that most of these human rights have in recent years been publicly reaffirmed and given a certain juridical status by the Universal Declaration of the Rights of Man promulgated by the United Nations, The Canadian Bill of Rights, The Ontario Human Rights Code, among many others. These human rights have recently been solemnly proclaimed in the widely heralded encyclical of the late John XXIII, *Pacem in Terris*. While the juridical recognition of these rights is proper and valuable, we here underline with grave insistence that they are antecedent to, and independent of their affirmation by legal statute or declaration. Moreover it is not enough to affirm them. It is not sufficient, for example, to acknowledge a man's right to the means of subsistence. Duty requires that we take all available, reasonable means to see that he actually has adequate food, clothing, and shelter.

Taxation policies aimed at promoting, implementing, and guaranteeing these natural rights are just and worthy of praise; policies which are directed against them are unjust and worthy of condemnation.

TAXATION AND THE COMMON GOOD

In Canada today we need not labour the point that man is a social being; that the social dimension of his nature is not accidental but of his very essence; that the state has its reason for existence in meeting the social exigencies of man's nature; that the state exists for man and not man for

the state; that the essential function of the state is to promote the general welfare or the common good as it is called. The vast majority of Canadians accept these truths.

Still, since taxation is the raising of revenue for the common good, it is important to have a clear idea of what the term means lest it remain a vague and useless concept.

The common good is not merely a sum of individual goods. Besides, it is a dangerous oversimplification to look upon the common good as the provision by the state of goods that the individual cannot produce for himself. The common good is the fruit of social cooperation. When two men join together to move from the roadway a stone that neither of them alone could move they have produced an entirely new dimension of power and productivity. This new power would have been non-existent without the union of their forces. Both men now enjoy the fruit not of their individual and separate efforts, but of their cooperation which made possible the removal of the obstacle from their path. By providing opportunities for fruitful cooperation to achieve goods beyond their individual power the state is promoting the common good.

Founded upon men's need for mutual completion the common good is not to be looked upon primarily or merely as a mathematical sum of the piecemeal contribution of individuals as individuals. Rather the common good is something plus, the new dividend, the capacity for additional development of the resources of the human personality through higher productivity in the economic and cultural spheres resulting from cooperation.[5]

If the common good is not the mere sum of isolated individual efforts neither does it consist in the dispensation of goods or benefits from some

5. "The good which we designate as the common good is the well-being of society at large. Since it consists of the augmentation of what individuals can accomplish for their own well-being, their individual good, by the mutual supplementation of their powers through social cooperation, it is a new reality. Though it subsists ultimately only in individuals, it is a distinct reality, since the effect of social cooperation is that the members of society thereby attain their full selves, which would otherwise be impossible. So much does this development depend upon social supplementation that the well-being of the members exists as a part of the actualized common good of society. Consequently it is not the means for social cooperation in society, such as legal and social institutions, which constitute the common good, but their effect in the attainment of their full selves by the members of society . . .

"A long list could be made of these instrumental goods of common utility. Among the institutions to be enumerated would be the legal system, educational institutions, the public health services with hospitals and research institutes, the social welfare services, the army for external and the police for internal security, the public utility services which provide roads, bridges, water supply and light supply. All these institutions are means in the service of the common utility, which consists in final goods or values such as well-established peace and order in society, the positive actualization of all freedoms implied in the development of man's true self, a good state of health in the community at large, the economic welfare of all, social security . . .

"Those institutions are goods of the community. They possess an instrumental character with regard to the common good inasmuch as they are means to serve the members of the community in the achievement of their spiritual, physical and material welfare." MESSNER, J., *Social Ethics,* Herder, St. Louis, 1952, pp. 122-23.

central pool to which the members of society have collectively contributed. More precisely it consists in the added dimension of human potentialities accruing from an organized society in which men are free to achieve their essential purposes by self-determined activity in association with each other and in reciprocity of rights and duties. Social cooperation, favoured, fostered, stimulated, directed, and, when necessary, supplemented by the state makes it possible for men to move towards their full stature and perfection as persons without depriving them of their individual responsibility.

For the state to fulfil its role as promoter of the common good two areas of activity are of primary significance. The first is the negative one of maintaining law and order through the agency of the courts, the police, and the armed forces. Properly conceived these agencies of coercion are the instruments of true freedom and peace, for they restrain the anti-social elements in society from interfering with the pursuit of their legitimate goals by others. Some individualists would be inclined to stop here with the assumption that the state should do little more than act as an umpire.

The second basic function of the state is positive, namely the duty actively to promote the conditions of material and cultural welfare of its members by enabling them to share in the fruits of their social cooperation. Here we must be on our guard against the collectivist error. The state is not meant to provide directly for all the needs of its members. The power of the state should be used to foster the social cooperation of its members so as to achieve the maximum economic and cultural welfare of the whole society. This function is subsidiary to private initiative as we shall have occasion to note later.

Rightly comprehended, the principle of the common good is the most fundamental of all social principles. All the powers and activities of the state, including the power to tax, are justified by and must be ordered to the lasting realization of the common good.

TAXATION AND PRIVATE PROPERTY

Since taxation is a levy imposed on the total increment of wealth produced by the economic activity of private persons including corporations, some comment for the record on the nature and purpose of private property would seem appropriate.

We begin with the proposition that the material resources of the earth were created to serve the needs of all men. This is the primordial function of all created material goods. Consequently all men have the natural right to the use of these created material goods. This right is logically anterior to and more fundamental than the right to private property itself. This principle which we shall call the principle of "common use" might seem at first glance to favour the Marxian view of property, leading to some form of collectivism. On the contrary we hold that the systematic and orderly reduction of the principle of common use to practice calls for the institution of private property. Private property reduces the goods of the earth to

the service of all men in the most efficient way possible.

Private property is a stimulus to personal industry; it encourages thrift and care in the handling of goods; it specifies what is yours and mine and so checks vague and indefinite claims, eliminates strife and contributes to an orderly life in community. Private property gives owners a precious opportunity for the exercise of responsibility; protects and safeguards the worth and liberty of the individual; provides security and a decent independence for the family, and dignity for the working class.

Thus a system based on private property is the means most suitable from a practical point of view for the actualization of the principle of common use. Seen in this perspective the institution of private property is an institution necessary for the provision of men's needs while safeguarding the human rights to liberty and responsible self-development. Any state which unduly curtails or denies in practice the exercise of the right to private property, whether it be by confiscatory taxation or any other means, is unjustly depriving citizens of their rights. The history of the last few decades shows that the disappearance of private property invites political tyranny.

All that we have said about private property is far from denying the state's right and, indeed, duty to see to it that the institution of private property is brought into accord as far as possible with the more fundamental and imperative principle of common use whereby the material resources of the world are made to serve the needs of all men as their Creator intended.

Property thus has a twofold character. Ownership has a social as well as an individual aspect and owners are not justly free to take into account only their individual advantage to the neglect of the common good.

> "When civil authority adjusts ownership to meet the needs of the public good, it acts not as an enemy, but as a friend of private owners; for thus it effectively prevents the possession of private property, intended by nature's Author in His Wisdom for sustaining human life, from creating intolerable burdens and so rushing to its own destruction. It does not therefore abolish but protects private ownership and far from weakening the right to private property it gives it new strength."[6]

This principle of common use to which the institution of private property must conform also underlies that kind of justice called distributive justice.[7]

6. PIUS XI, Quadragesimo Anno, *Acta Apostolicae Sedis,* XXIII, 1931, 201.

7. Justice is a moral virtue which imposes the obligation of rendering to everyone that which is his due. Justice is thus concerned with rights.

The traditional treatment which goes back to Aristotle (*Nicomachean Ethics,* i. V; Politics, I, III, IV) divides justice into the three categories of commutative, legal, and distributive justice. The divison corresponds to the vared relationships that exist among men in their dealings with one another.

Commutative justice, or strict justice as it is called, harmonizes the exercise of rights as between man and man; that which regulates a citizen's relations and obli-

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The state in virtue of the obligations of distributive justice must share out its burdens and benefits in accordance with a proportionate equality implicit in the principle of common use. In a word the state must take capacity and legitimate need into consideration in view of the right of all, not just a few, to adequate access to the material goods of the earth. For example, we have justification here for the progressive income tax and a valid basis for such secondary norms as "ability to pay" and "equality of treatment". Provided the equality is an equality of proportion justice is served and the institution of private property is brought to minister to man's material needs in a climate of freedom and personal responsibility.

Through its taxation policy as well as by other means the state should protect the institution of private property and favour its widest possible diffusion consistent with the common good.

THE SUBSIDIARY FUNCTION OF THE STATE AND ITS POWER TO TAX

One final and vital social principle deserves comment. We refer to the principle of subsidary function which specifies the role of the state and also by implication the use of its power to tax. The principle of subsidiary function has been given its classic expression in these words:

> "This supremely important principle of social philosophy (subsidiarity), one which cannot be set aside or altered, remains firm and unshaken: Just as it is wrong to withdraw from the individual and commit to the community at large what private enterprise and endeavour can accomplish, so it is likewise unjust and a gravely harmful disturbance of right order to turn over to a greater society of higher rank functions and services which can be performed by lesser bodies on a lower plane. For a social undertaking of any sort, by its very nature, ought to aid the members of the body social but never to destroy or absorb them."[8]

7. *(Continued)*
gations toward the state is legal justice; that which regulates the just conduct of the state towards its citizens is distributive justice.

The virtue of distributive justice has to do with the state in its role as distributor of the common burdens and privileges so as to make it possible for citizens to live harmoniously together, and for each to exercise his natural rights. The distribution of the tax burden consequently comes under this third category of justice called distributive justice. It obliges those who act in the name of the state and with its authority to distribute the tax burden in such a way as to protect the rights of the citizens. Among these rights are those basic claims of all men which flow from the principle of common use, the social function of private property, and the demands of the common good.

Another branch of justice which overlaps legal justice and extends beyond it is called "social justice". Social justice demands from individuals and groups of individuals gathered together in lesser societies all that is necessary for the common good, even though what must be rendered has not formally been made the object of legislation by the state.

8. PIUS XI, Quadragesmo Anno, *Acta Apostolicae Sedis,* XXIII, 1931, p. 203.

There is no doubt that state activity in the economic and social fields has increased over the past decades. Advances in economic science and experience in moderating the extremes of the business cycle with the aid of tax policy, as well as control of interest rates and government expenditures give promise of new and valuable instruments in the hands of the state for furthering and protecting the common good. But the principle enumerated above must always be retained for it is the balance wheel between the exaggerations of *laissez-faire* capitalism and the opposite extreme of rigid collectivism. The principle is so closely associated with all human activity that it is valid for every social group from the lowest to the highest. Experts on child care, for example, point out that children as they grow need an increasing opportunity to exercise their own powers, to feel the rewards of accomplishment and the penalties of irresponsibility. If family authority is exercised in such a way as to over-govern or over-protect children they will be seriously disturbed in their development no less than if they were completely neglected.

It is likewise true that state activity in the economic field, no matter what its breadth or depth may be, ought not to be exercised in such a way as to curtail an individual's freedom of action. Rather it should work to expand that freedom by the effective protection of each and every essential personal right.

PARTICULAR APPLICATIONS

From the general principles set out above, certain more proximate norms of just taxation may be derived:

1. *Tax policy should take into account "ability to pay"*

No modern tax system demands that each system pay an equal share of taxes. Taxes are proportioned according to capacity to pay. This norm of "ability to pay" flows logically from the social exigencies of private property which requires the state to see to it that the institution of private property serves the common good. Consequently the burden of taxation should fall more heavily on those who have a surplus over and above what is necessary for a decent human existence. In this way the state adjusts the institution of private property to the principle of common use which, as we have already explained, dedicates the material resources of the earth to the needs of all men. This principle of common use is more fundamental and sacred than the institution of private property.

"Ability to pay" is a normative principle which cannot be reduced to a scientific or mathematical formula. It justifies a progressive system of taxation whereby liability to tax becomes proportionately heavier as income or wealth increases but it cannot determine the precise degree or rate of progression. The ultimate sanction of progressive taxation is a consensus of ethical judgment concerning the socially desirable distribution of the na-

tional income. Progressive taxation should be tempered by prudence so that it will not become economically destructive and by justice so that it will not become punitive.

At the lower end of the income scale estimation of ability to pay should take into account the needs of the family as the basic cell of society and in particular its need for a decent standard of living. Although some indices exist continuing studies should be encouraged to provide, as accurately as possible, a workable estimate of minimum adequate family income.

In line with this principle luxury items such as alcohol, tobacco, gambling should be taxed more heavily than the necessities of life.

At the other end of the income scale progressive taxation should recognize the justice and social value of economic incentive and the individual's personal responsibility for wealth acquired by his own efforts or good fortune.

To the questions, where should progression begin; how rapidly should it increase and where should it end, there are no easy rule-of-thumb answers. The precise formula will have to be worked out experimentally and tested by continuing objective study to determine the effect of any given scale on the production of essential revenues, or the formation of risk capital, on the incentive to work and a suitable expansion of the economy as well as on the protection and optimum diffusion of private ownership. This will be the task of expert statisticians, economists and social psychologists.

It would be idle to hope for mathematical precision in the just progressive distribution of the tax burden. We do not underrate the difficulty of the task but this is no reason for failure to press ever closer to the goal by objective scientific study which aims to implement in practice and bring into harmonious relationship the important principles outlined above.

With regard to incentive to work and to take the necessary risks of investment it should be borne in mind that there are in the upper income brackets other incentives beside those of purely monetary rewards.

2. *Tax policy should strive for "equality of treatment"*

Ability to pay is not inconsistent with another valid principle of tax justice, "equality of treatment for those in like positions". Tax policy should avoid all discrimination and favouritism so that the burden is shared equally by those with approximately equal ability to pay. For those with differing ability to pay there is still a certain equality to be aimed at, namely an equality of proportion, though not necessarily mathematical proportion. Therefore, as we have pointed out, progressive taxation is justifiable and may even be demanded by the virtue of distributive justice.[9]

It is not administratively possible to take into account the multiplicity of personal circumstances of individuals in striving for tax justice. Tax policy, however, should be based in as far as possible on ascertained fact and not swayed by the untested slogans of vested interests.

9. cf. footnote No. 7.

3. *Tax policy should consider the welfare of the national economy and the common good*

Great disparities between the wealthy and the poor are an unjust violation of the social purpose and function of private property. To meet the demands of social life the distribution of property cannot be left solely to the free play of blind economic forces but must be dealt with in the perspective of the national economy and its needs.

Tax policy should look to the increasing of the national product by favouring the growth of private risk capital in new and expanding production. Allowance should be made too for depreciation and the modernization of industry.

Since new capital for investment must come from savings, excessive taxation could bring the economy to a standstill or alternatively could tend to substitute government investment and public ownership of industry for private enterprise to the great harm of the social body. Any tax system which tends to increase public investment by deterring private investment deviates from the principles of social justice.

A too rapid formation of new capital at the expense of an adequate standard of living for the lower income groups does not serve the common good.

4. *Tax policy should consider the needs of the international community of nations*

The growing interdependence of the members of the international community and the interrelation of their economies consequent upon advances in transportation and communication call for a new emphasis on international social justice. Apart from the obligations inherent in the principal of common use whereby all men are entitled to access to the material resources of the world, inconsistencies and differences in the tax systems of members of the world community can affect adversely international trade and investments to the grave detriment of world production. Our duty, especially to the underdeveloped countries which is a matter of justice as well as charity, requires that we cooperate to the full with international agencies in an effort to remove the tax obstacles to investment and world production.

5. *Taxation may be cautiously used as a contributing means to the redistribution of income and wealth*

Tax policy may be one of the means used to bring about a better distribution of income and wealth in the national community. A more suitable means, less dangerous to the socially vital institution of private property, would be provision for the payment of a just wage in keeping with the resources of the community. One could not commit oneself to a plan wherein policies of excessive taxation might render private ownership ineffective

as a constitutent element of social order. As one authority notes:

> "The goal of a proportional distribution of income is, of course, an admirable one and taxation may well be a means in this connection with others to achieve this purpose, and thus not only may be justified but may be prescribed by justice. This goal of justice had to be indicated in the face of the fiscal theory of laissez-faire. Today the limits set by it must be stressed in the face of the collectivist trends of fiscal theory."[10]

6. *Necessary cooperation of Federal, Provincial and Municipal jurisdictions*

Since the British North America Act divides taxing powers between the federal and provincial jurisdictions in a way that restricts the taxing power of the Provinces, and since in turn the Provinces govern the taxing power of the municipalities there is urgent need for the sharing of revenue sources in proportion to the necessary expenditures of each jurisdiction. The comparative burdens of expenditure have been notably altered since Confederation in 1867 with the large growth in requirements for public transportation, roads, education, and social services. The whole picture has changed and consequently a complete review of the situation leading either to joint agreements or a revision of the British North America Act is indicated. We realize that the terms of reference of your Committee extend only to recommendations appropriate to the Province of Ontario. Yet each Province has its responsibility to the national community.[11]

The universally valid principle of subsidiary function outlined above should not be overlooked in attempting to reach a satisfactory agreement on these points.

10. MESSNER, J., *Social Ethics,* Herder, St. Louis, 1952, p. 634.

11. "Expenditures by provinces and municipalities are now estimated to represent over 16% of the GNP as compared with 9.5% ten years ago. At the present level, these expenditures are close to those of the Federal Government. Provinces and municipalities, like all governments, are constantly under pressure to increase their spending and have no difficulty in finding things to do when every proposal is prefaced with the cliché of economic mythology, 'Canada is rich enough to afford this.'

"Quite understandably they feel little or no responsibility for the national interest, which is regarded as the concern of the Federal Government. The unhappy effect of the scramble for taxes by three levels of government was one of the reasons for the appointment of the Rowell-Sirois Commission 26 years ago. We now appear to be back just about where we were at that time with one important difference, the level of Government expenditures is relatively much higher than it was a quarter of a century ago and therefore has a greater economic effect for good or for evil.

"Having had for 20 years a ringside view of relationships between the Federal Government and the Provinces, perhaps I am overly pessimistic about the prospects for cooperation between them in fiscal matters in the national interest."

GRAHAM F. TOWERS, Address to the 116th Annual Meeting of the Canada Life Assurance Company.

We do not hesitate to say that social justice requires all these jurisdictions to keep in mind the national common good and that more favoured areas should be prepared to make their contribution to that national common good even at the cost of some sacrifice to themselves.

At present the wasteful costs of duplication in tax collection by the three jurisdictions would seem to merit close study with a view to their elimination.

7. *Tax Evasion*

Finally we would like to raise our united voice in condemnation of all unjust tax evasion. We do not refer to those who take advantage of uncertainties or so-called "loop-holes" in the law itself. They are justified on the principle that an uncertain law does not bind. We have in mind rather those who deliberately avoid tax payments when the law and its particular application to themselves are quite clear.

In the past and in some countries there may have been justification for this latter kind of evasion on the score that tyrannical governments imposed unjust and excessive tax burdens; that there was notorious waste and corruption in the disposal of state revenues; or that the authority of the lawgiver did not intend to bind the conscience of citizens in the matter of tax payments. We do not believe that such conditions exist in the Province of Ontario today. Consequently we look upon the payment of taxes in this Province as an obligation of conscience — a duty which flows from the moral imperatives of both legal and social justice.

Since the state has the inescapable obligation to see that justice is done, every effort should be made to ensure that justly levied taxes are actually collected and that those who deliberately seek to evade such taxes should be brought to account with the imposition of suitable penalties no matter who these culprits may be.

Where real abuses exist, then, they should be curbed by the alert vigilance of the taxing authority. We on our part will continue to insist in private and in public on the obligation of citizens to bear their just share in promoting the common good of the community.

TAX EXEMPTION OF RELIGIOUS, CHARITABLE AND EDUCATIONAL INSTITUTIONS

Tax exemption for religious, charitable, and educational institutions of Ontario has such a clear sanction in our history and tradition that we should be very slow to challenge, let alone brush aside, what the wisdom of previous generations has set down as good and proper for the public welfare.

While we by no means hold that what has been should always be, still we consider it the part of prudence to bear in mind that not all wisdom is the prerogative of the present. Earlier generations must have had sound

reasons for insisting on these exemptions in spite of the recurring challenges they have met.

THE ISSUE IS NOT NEW

The debate over these particular exemptions is not new and many of the main arguments have been presented before.

In September of 1897, for example, the municipalities of Ontario sent representatives to the Toronto Convention on Tax Exemption. In an address to the gathering, Mayor Shaw of Toronto stated:

> "We have attempted to get legislation that would do away with exemptions but hitherto we have failed. And now we have called together the representatives of the municipal bodies from all over the Province of Ontario, hoping that we may be able to get such an expression of opinion from them and such united effort and concerted action as will force the local legislature to do away with exemptions."[12]

Mayor Shaw and his confrères failed again and the local legislature was not forced to do away with exemptions. Over the years the exemptions have occasioned debate and yet each time the balance has swung in their favour. Judgment has consistently been rendered in support of the equity and social soundness of the existing policy of exemption.

A few years before the Toronto Convention on Tax Exemption, the Ontario Province Commission on Municipal Taxation, in 1893, had anticipated most of the arguments of the municipalities and the Commission's opinion, recorded in a supplement to their report written by the Honourable T. W. Anglin, largely rejects their reasoning:

> "The ability of these institutions to do the work they have undertaken to do for the public would be lessened to the extent of such taxation, and few of them now receive from all sources as much as they need. Would it be wise — not to say Christian or humane — to change the law so that a larger amount of suffering and poverty must go unrelieved."[13]

INTENTION OF THIS BRIEF

We have no doubt that the broad terms of reference for your Committee will make it inevitable that the question of exemptions will come before you for review. In presenting our considered views in support of these exemptions we feel that it is necessary to deal with the problem at some length, yet we wish to spare the Committee unnecessary repetition.

12. "Proceedings of the Tax Exemption Convention," Toronto, 1897; Archives, Toronto Public Library.

13. Ontario Province Commission on Municipal Taxation, 1893. Archives, Toronto Public Library. The entire supplement is appended for the convenience of your Committee, cf. *Appendix* I.

Accordingly we point out that we have already associated ourselves with the brief presented by the *Inter-Church Committee on Legal Affairs* submitted by the Honourable Donald Fleming, P.C., Q.C. That brief dealt specifically with the exemption of church property.

We have also through our representative taken part in the preparation of the brief presented by the *Independent Secondary Schools in Ontario.*

Our presentation in this brief will therefore be more general and will consider the exemptions of religious and religion-affiliated, non-profit institutions together in the light of principles which, we believe, are enduringly sound and valid for all of them.

MUNICIPALITIES MAIN OPPONENTS OF EXEMPTION

The reasons for the recurring demand for the abolition of all or some of the exemptions in question do not seem to us to be rooted primarily in hostility to religion or a desire to destroy private initiative in charitable enterprises and education. For the most part the opposition to exemptions stems, rather simply, we believe, from the pressure on local government to find additional sources of revenue to meet the greatly increased cost of the expanding responsibilities of the modern municipality.

Property tax is at present the main source of revenue under municipal jurisdiction. Since by fairly common consent the view is held that this tax on real property has reached, or is reaching, the saturation point, it is only to be expected that the eye of the municipal authority should fall on the untaxed property of religious, charitable, and private educational institutions, as at least a partial answer to their needs.

It will be our contention that such a solution to the admitted problem of the municipalities would be wrong in principle, contrary to a wise and firmly embedded tradition, harmful to the best interests of the municipalities themselves, completely inadequate and ineffective as a remedy for their plight, and, finally, an inequitable burden on non-profit institutions which are already making a large contribution to the common good of the community.

TRADITION OF TAX EXEMPTION SOUNDLY BASED

The witness of tradition bears strong testimony to the soundness of the exemptions in question:

> "A perusal of the history of tax exemption indicates that the granting of tax immunity to ecclesiastical property is probably as old as the institution of taxation."[14]

The first direct tax of which we have record in England was levied in order to raise money to buy off the Danish pirates. Church property was explicitly exempted from this tax.[15]

14. STIMSON, "Exemption of Churches from Taxation," 18, *Taxes* 361, 1940.
15. *ibid.* p. 361.

Exemption of non-profit ecclesiastical property including churches, schools and charitable institutions has been the constant tradition in the United Kingdom from that time onwards.[16]

Roman law influences on the common law of England reinforced and supported the exemptions for ecclesiastical property. The ancient Roman tradition had held rather simply that property dedicated to religious use had lost all qualities of human ownership. Taxation of such property was therefore illogical and prohibited.[17]

By the beginning of the 16th century the breakdown of the medieval economy had given rise to a new type of unemployment and poverty. Almsgiving up to this time had been looked upon as the domain of the Church and the fulfilment of a personal Christian duty. With the enactment of the first of the famous "poor laws" in 1531 the trend was set for the recognition of some responsibility on the part of the civil community for the relief and protection of the poor. Legislation over the succeeding decades improved and refined the administrative machinery for collecting taxes but from the beginning the property of the churches was specifically exempted from the levy for these purposes.[18]

Similar exemptions were also provided for in the first "highway act.[19]

In Canada we are the heirs of a tradition which has its roots and enduring qualities in the Roman law and the common law of England.

TAX EXEMPTION OF RELIGIOUS, CHARITABLE, AND EDUCATIONAL INSTITUTIONS IN THE UNITED STATES OF AMERICA

Historically, the tax exemption of religious, charitable, and educational institutions has been the public policy of the United States since colonial times and continues up to the present day. The early colonists brought their traditions with them from the homeland in Europe and their tradition of tax exemption has never been successfully challenged in the courts. Every State in the union, more than two thirds of them by solemn consti-

16. Land tax was abolished in the United Kingdom as of March 24, 1963. There are, however, new provisions for the taxation of *income arising from the profits on property leasing* — rental tax — and on short term gains arising out of property transactions. Charitable organizations remain exempt from these taxes as they are from all income taxes for those parts of their income which are directly related to charitable purposes.

    The definition of a "charity" or "charitable organization" dates from Elizabethan times (cf. 43 Elizabeth c.4). It signifies any body of persons or a trust established for charitable purposes which include: 1) the relief of poverty; 2) the advancement of education; 3) the advancement of religion; 4) certain other purposes *beneficial to the community* not fallnig under any of the preceding heads.

17. STIMSON, p. 183; cf. also Gibbons' *Decline and Fall of the Roman Empire,* Millman edition, p. 11.

18. cf. 3-4 William IV, ch. 3.

19. cf. 5-6 William IV, c. 50, sec. 27.

tutional enactment, provides for some substantial form of exemption for these institutions.

The basis in public policy for such exemptions is clearly set forth in American jurisprudence and the abundant testimony of court decisions.

In the case of *Yale University v. Town of New Haven,* the court commented on the declaration of the Connecticut Legislature which exempted churches, charitable institutions, and private schools from taxes, as follows:

> "The declaration was not an exemption in a strict sense of the word . . . They were untaxed, as they had been for 200 years without any legislative declaration, because they are not 'ratable estate' because they have been placed in that category of property which ought not to be taxed by virtue of a public policy too clear to be questioned, and which had been followed without any specific legislation by our government since its beginning. . . . It has been inseparably interwoven with the structure of our government and the habits and convictions of our people since 1638. . . . It is a misnomer to call the non-taxation of such property an exemption . . . "[20]

An even earlier decision of a New York court stresses the same line of argument:

> "The policy of the law has been, in this state from the early days, to encourage, foster and protect corporate institutions of religious and literary character, because the religious, moral and intellectual culture afforded by them was deemed, as they are in fact, beneficial to the public, necessary to the advancement of civilization, and the promotion of the welfare of society."[21]

Stemming from the common law and practice of England, the tradition of the United States has never wavered in its defense of these exemptions.

We now consider it advisable to make a more extended comment on the history and status of exemptions in the United States because it brings into perspective the so-called issue of the separation of Church and State and its relation to the exemption of religious and religion-affiliated bodies.

TAX EXEMPTION AND SEPARATION OF CHURCH AND STATE

Of recent years we have been hearing, in Canada, more and more about the "wall of separation between Church and State."[22]

There is no denying the inevitable and strong influence of American thought and culture on that of Canada. The press, radio, television, and

20. 71 Conn. 36, 43 Atl. 87, 1899.

21. People ex rel. Seminary of Our Lady of the Angels v. Barber, 42 Hun. 27, 30, 1886.

22. The phrase, taken from a private letter of Thomas Jefferson, is nowhere to be found in the U.S. Constitution or its Amendments.

cinema make Canada front row observers of American public life. Currents of thought in the United States have their strong repercussions in Canada. For this reason the debate on the Church-State issue and its relationship to tax exemption calls for a somewhat fuller treatment than would otherwise be warranted by the past history and tradition of Canada.

We do not intend to go into the legal intricacies of the interpretation of the First Amendment to the Constitution of the United States.[23] The particular American problem is not ours. Half-understood slogans borrowed from the legal battles of a tradition that is by no means identical with our own will not necessarily help us to arrive at a just and viable solution to Canadian problems.

One point, however, from the American experience deserves to be stressed. In spite of the controversial decisions of the U.S. Supreme Court over the past two decades and no matter what interpretation is put on them by way of sharpening the division between Church and State, this fact stands out clearly — tax exemption for religious, charitable and educational institutions has never been seriously threatened. Rather it has been supported by an unbroken line of confirming decisions.

THE CALIFORNIA CASE

We have mentioned that all the States of the Union actually grant the tax exemptions in question. The State of California prior to 1951 was a solitary exception in that it taxed private non-profit elementary and high schools.

In 1951 a law was passed by the State Assembly granting exemption for these schools. A referendum in the 1952 state elections upheld the 1951 statute. Notwithstanding this clear demonstration of the will of the majority of the citizens and their elected representatives, court action was taken by a dissident group to have the statute granting the exemptions declared unconstitutional as being inconsistent with the First Amendment.

After lengthy litigation in the lower courts, the California Supreme Court ruled that the tax exemption was not unconstitutional. The United States Supreme Court on appeal refused to review the case, dismissing it with the statement that the California tax exemption presented "no substantial Federal question."

In 1958 the matter came once more before the California electorate on an initiative referendum. Once again the citizens overwhelmingly rejected the proposal to cancel the exemptions by a ratio of more than two to one and a plurality of nearly two million votes.

Since part of the argument presented to the United States Supreme Court in the California exemption case touches so closely on the matter of this brief, we feel it appropriate to make it available to the members of your Committee. (Cf. *Appendix* II)

23. "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . "

THE CANADIAN TRADITION

If we turn now to the tradition of our own country we shall see that the case for tax exemption for religious, charitable and educational institutions is, if anything, stronger than in the United States.

Respect for religion and its public function goes back into the earliest history of Canada.

> "L'immunité reconnue aux biens ecclésiastiques et religieux depuis la fondation de la colonie jusqu'à la cession du pays à l'Angleterre n'a jamais été mise en doute par personne. Sous la domination française le pouvoir public n'a jamais eu la préoccupation de grever de taxes les biens religieux; il a plutôt cherché à les protéger et à les accroître. Plus encore qu'en France, au Canada les institutions religieuses comptèrent sur l'assistance du trésor royal et du pouvoir public, et ceux-ci n'eurent jamais la pensée de leur imposer aucune taxe.
>
> La cession du pays à l'Angleterre n'a rien modifié aux privilèges et droits de l'Eglise en matière d'immunité réelle: elle a simplement substitué Sa Majesté Britannique à Sa Majesté Très-Chrétienne, dans tous ses droits sur le temporel de la colonie, en garantissant le libre exercice de la religion catholique sous la nouvelle domination. Rien dans les termes du traité de cession n'implique une dérogation quelconque aux privilèges et exemptions reconnus jusque là aux biens ecclésiastiques: au contraire."[24]

There was never any question of taxing churches or church-related institutions. On the contrary these institutions received direct aid and support from the public power on grounds of public policy. Thus at the very outset of the joint enterprise of the English and French in what is now Canada, the principle of religious tolerance and state approval and support of its unhampered exercise was recognized by the victors.

Succeeding periods in the history of Canada and of the Province of Ontario have not, we readily agree, been without their inevitable tensions and controversy. We think it true to say, however, that the history of our own Province has been one of increasing tolerance and cooperation not only between the various religious bodies themselves but also in their relations with the state.

The Constitutional Act of 1791 established the Province of Upper Canada and officially began the history of Ontario as a separate jurisdiction with a population at that time of scarcely 50,000 whites. For the next half-century, until the Act of Union in 1841, Canada was very much a colony with only token self-government. The Legislative Assembly was, it is true, an elected body, but any measure it passed had to win the further approval of the appointed Legislative Council, the Governor, the British House of Commons, the British House of Lords, to say nothing of the Colonial Of-

24. GONTHIER, D. C., O.P., *Les Corporations Religieuses et L'Exemption de Taxes*, Editions de l'Action Sociale Catholique, Quebec, 1916, p. 20.

fice where important administrative decisions were made.

In these pioneer days there were, of course, no taxes levied on church property or on that of schools. There was no significant number of charitable institutions to worry about on the score of exemption.

The Constitutional Act provided for "a permanent appropriation of Lands . . . for the Support and Maintenance of a Protestant clergy . . . equal in Value to a Seventh Part" of the lands granted in every township. These lands, known as the "clergy reserves", became in fact a bitter bone of contention, especially among the Protestant groups themselves for the revenues were assigned only to the Anglican Church, with the Church of Scotland later participating. Methodists, Roman Catholics, and others were excluded from these benefits. This essay into a kind of Church establishment after the tenor of the times and the pattern of the mother country was finally brought to an end in 1854.

It is interesting to note, however, and indicative of the attitude of those days towards the public function of religion, that far from putting the burden of taxation on other religious bodies besides those of the Church of England and the Church of Scotland, support and assistance were provided by the public authority.

In 1797 the Colonial Secretary set aside certain lands:

> "First for the establishment of free grammar schools in those districts in which they are called for; and secondly in due course of time by establishing other seminaries of a larger and more comprehensive nature for the promotion of religion and moral learning and the study of the arts and sciences."

Professor Sissons, commenting on this provision, states:

> "It is tolerably plain that what the Colonial Secretary had in mind was the establishment of more than one institution of higher learning on differing religious foundations."[25]

When in 1826 the Canada Company was established to take over and market 1,384,013 acres of the Crown reserves, the terms stipulated by the Crown included: £1000 as an annual grant towards the building of a college; £400 as an annual salary to the Roman Catholic Bishop, and £750 for the Presbyterian clergy in connection with the Kirk of Scotland.[26]

There can be no doubt of the fact that the earliest days of Ontario's history give tangible evidence of the state's awareness of the public value of religious influence.

Though government grants to churches and clergy are a thing of the past the uninterrupted tradition of exemption from property taxes has stood firm. If in the increasing complexities of a pluralist society and with the unhappy experience of the clergy reserves behind it, Ontario no longer

25. CHARLES B. SISSONS, *Church and State in Canadian Education,* Ryerson, Toronto, 1959, p. 6.

26. CRAIG, G. M., *Upper Canada — The Formative Years,* McClelland and Stewart, Toronto, 1963, p. 137.

makes direct contributions to religious activities as such, yet the Province has never showed any fundamental change in its estimation of the value of their work for the common good. Never has it hindered or reduced the ambit of their salutary work with the burden of the general property tax.

The Ontario Assessment Act of today is the direct heir of this unbroken tradition of our Province. In Section 4 we read:

> "(3) Every place of worship and land used in connection therewith and every churchyard, cemetery or burying ground . . .
>
> "(4) The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a university, high school, public or separate school . . .
>
> "(5) The buildings and grounds of and attached to or otherwise *bona fide* used in connection with and for the purposes of a seminary of learning maintained for philanthropic or religious purposes . . .
>
> "(12) Land of an incorporated charitable institution organized for the relief of the poor . . . "

We have recorded at some length the tradition of the United Kingdom and the legal decisions in favour of exemptions in the United States. There is no comparable jurisprudence to record for Ontario. The reason is simple. The disposition of our government to recognize in a practical way the contribution of religious, charitable and educational institutions to the general welfare of the Province and the nation by exempting them from the general property tax, has not been legally challenged.

NON-PROFIT INSTITUTIONS AND TAXATION

Tax revenue, if it is to be raised in a manner that meets with the canons of justice and sound economy, should normally be drawn as a reasonable percentage from the national income. In times of national crisis it might be necessary to levy taxes which diminish the community's economic capital but in ordinary circumstances the depletion of capital would be a self-defeating process. Diminishing the capital resources of the economy would reduce in turn the national product or income. Such a policy would retard the normal and necessary growth of the economy and in the long run reduce the tax base. Ordinarily, then, it is axiomatic that tax revenue should come from the economic income.

One reason why churches, charitable institutions, among other non-profit institutions, have been exempt from property taxes was and is that they are not engaged in the production of economic income. They do, indeed, provide services having a substantial social and economic value. But such services, so far from realizing an economic return in the sense of commercial transactions, are characteristically provided at a loss that is defrayed by the charitable contributions of those who support them. They are not directly involved in the income-creating process.

When we speak of property taxes we should bear in mind that they are

in fact income taxes in the sense that they normally must be paid out of current income.[27]

The taxing authority does not in reality appropriate a section of the property being taxed. Rather the value of the taxpayer's real property is used as an index of his taxable capacity that is administratively convenient and approximately equitable. The taxpayer's actual capacity is a function of his income; and his local taxes are normally paid out of income, although the amount is determined by assessment of the property which he owns.

All taxes, then, should be and usually are derived directly or indirectly from the income of individuals however earned and in our society this process involves substantial direct taxation of corporation profits.

Here we have to distinguish between individuals and institutions. Any individual earning income, whether from employment or from ownership of productive assets, is earning a direct share in the economic output of the community. Consequently he should bear a just share of the tax burden. He should pay his share from that part of his income which stands above the limits of the exemptions established by public policy with reference to his ability to pay and the general demands of the common good.[28]

When we come to consider institutions, we must note the essential difference between business corporations, where the primary function of earning profits likewise connotes taxable capacity, and non-profit institutions where the primary function of religious, educational, or social service connotes no such capacity but depends on a residual share of income earned elsewhere and voluntarily contributed. Churches, for example, are not en-

27. At a joint meeting of federal and municipal officials held in Ottawa, October 6, 1958, Prime Minister Diefenbaker stated: "In the final analysis taxes on real estate are paid out of income. This is something that is not generally realized, that if the average income, after income tax is deducted, is considered in its relation to the total of real property taxes it will be found that real property taxes are now, on the average across Canada, 4% of personal income as compared to 5.8% immediately before the war. . . . And, of course, I admit that the situation varies widely. However, taking the average, it does reveal that there has been a realization, either directly or indirectly, of the fact that taxes on real estate had mounted to a point which was not in keeping with proper development." *Dominion Government and Canadian Municipalities Informal Conference,* The Queen's Printer, Ottawa, 1958, p. 10.

28. An apparent exception to this rule, which in fact is not an exception, concerns the income of persons belonging to a religious order who have taken a perpetual vow of poverty, Cf. Income Tax Act, chapter 148, *Revised Statutes of Canada,* Sec. 27, (1)b.

"Members of religious orders who have taken a vow of perpetual poverty may give all their income away to charitable organizations without paying tax thereon. . . . The 10% of income limitation on charitable donations does not apply to such donations. This relief is intended only for members of certain religious orders who turn all their earnings, such as teaching or nursing fees, over to their orders pursuant to their vows of poverty." *Canadian Master Tax Guide, 1963,* CCH Canadian Ltd., Toronto, p. 167.

The law recognizes the fact of the matter that the income of those exempted under this provision is not in reality personal income but income for the institution. Hence the exemption is thoroughly consistent with the provisions for the exemption of charitable institutions to be discussed below.

gaged in the income-earning function as their reason for existing. Nor are charitable and non-profit educational institutions so engaged. None of these institutions create economic income but rather produce a service which augments social peace and order, increases and preserves in the members of the general public the qualities of honesty, justice, charity, and devotion to the common good. They instil and foster the beneficent influences of science and knowledge. They prepare men for effective citizenship. They minister to the broken and derelict members of society who would otherwise be a heavier charge on the community. Thus these religious and charitable institutions make an untold contribution to the efficient functioning even of the income producing individuals and institutions from whose product taxes are primarily derived.

Tax exemption of such institutions is far from a discriminatory privilege granted to private interests within the community to the detriment of other members. Rather it is a wise provision sanctioned by the common sense of past ages which redounds to the economic as well as to the spiritual, social, and cultural well-being of the community.

All this has been instinctively recognized by the vast majority of the citizens of Ontario whose elected representatives in the Provincial Legislature, regardless of party or changes in the composition of the government, have never seriously questioned the principle of exemptions for churches, charitable institutions, and private non-profit schools. On the contrary in recent years the principles involved have received further recognition by legislation according some tax relief in respect of gifts and legacies to such institutions.

During his term as Provincial Treasurer, the Honourable Leslie M. Frost stated in the legislature:

> "It is in the public interest that monies and assets should be given to charities. It is desirable that every encouragement should be given to the person who desires to give his estate or portion thereof for such purposes . . . *very much wider exemptions were given in relation to gifts to religious organizations* and that has been the policy that has been followed now for six years."[29]

UNINTENDED CONSEQUENCES OF EXEMPTION REMOVAL

We have no reason to question the good faith of the majority of those who seek to do away with the exemptions we are here considering. Their immediate aim of finding additional revenue for the municipalities is above reproach. Humanly enough, however, some economic experts and tax specialists are liable to the same bias that affects many an expert in other fields. They may be inclined to think too narrowly in terms of their own specialty. Tax experts fail to take into account that the area of their special competence is not in a water-tight compartment; that it overlaps and can have

29. *Legislature of Ontario Debates,* March 25, 1948, p. 1335. Emphasis above added.

serious consequences when it affects other areas of genuine public concern. All social systems are a web of interdependent elements. One may intend to remove only a single prop in a house of cards but the unintended consequences can destroy a whole structure.

Tax authorities at any level of government cannot permit themselves to think or act in a vacuum. They must be, and undoubtedly are, aware that the maximization of revenue cannot be an end in itself. They must subscribe to the principle that the solution of one problem ought not to be worked out in such a way as to give rise to other problems, the long term consequences of which could be quite serious in terms of the common good.

Even from the narrower economic and fiscal view, prescinding for the moment from the broader and in many ways more important social and cultural perspective, the gains to be made by removal of the exemptions is highly questionable.

To increase the revenue of all the Ontario municipalities by means of a tax on the property of churches, schools, hospitals, and a multiplicity of social service and welfare organizations would in the long run cost the tax-payers a great deal more than they would have gained by the imposition of the property tax. We hope to be able to demonstrate this proposition in a convincing manner.

FUNDAMENTAL MISCONCEPTION ABOUT PROPERTY TAX EXEMPTIONS

The argument against exemptions on the part of some municipal authorities and tax experts seems to us to be based on a faulty assumption. They seem to take it for granted that all property within a municipality belongs to that community as of right for tax purposes. They assume that the municipality is autonomous and must be self-sufficient in all respects. What municipalities can or cannot do is for them a matter primarily of local concern independent of broader public considerations which transcend the limits of the individual municipality. Thus we hear such phrases as "robbing the tax base" or the milder "erosion of the tax base" in reference to the exemptions of religious, charitable, and educational property. Such phrases are in our opinion misnomers which overlook a very fundamental fact.

"Robbing" is unjustly taking something that belongs to another. The properties that remain untaxed by the will of the Provincial Legislature do not belong to the municipalities. They have never been given any right to tax them. Nor do they have any tax rights over property, or for that matter any jurisdiction whatsoever which they have not received from the Provincial Legislature representing the entire electorate of Ontario.

The municipality is legally the creature of a higher jurisdiction with powers and responsibilities and only such powers and responsibilities as

are delegated to it by the elected representatives of the people. At first these powers were very limited.[30]

Among these delegated responsibilities are certain public services which are admittedly costly. To meet the costs the Provincial Legislature assigns to the municipality certain sources of revenue, for example taxes on real estate, with the exceptions already noted, revenue from licences, fines and so on. The property of religious, charitable, and educational institutions has not been handed over to the municipalities as a source of revenue. Consequently the pleas of injury so often to be found in the speeches and writing of some commentators, is, in our opinion, quite unjustified.

The so-called "tax base" is not something to be elevated to the eminence of a sacred and untouchable absolute. It is a man-made construction that should be adapted to the exigencies of the common good.

Words can at times take on an autonomous tyranny of their own and become a substitute for thought. Repeated often enough they become invested with the sanctity of ritual and take on an authority derived from constant and unquestioned usage. The "tax base" is not a natural right of municipalities. It is the creation of the legitimate power of a higher jurisdiction which like all other state powers has as its end and purpose the promotion of the common good.

It is one thing to appeal to the Provincial Legislature for the power to impose taxes on property hitherto exempt. It is quite another to state or

30. The first municipal organization in Ontario was provided for in the Second Session of the first Provincial Parliament which met at Niagara, May 31, 1793.

33 George III, Ch. 2. authorized "annual town meetings to be holden, assembled by warrent of two magistrates" for the purpose of choosing parish and town officers. Among these officers are the assessors.

"And be it further enacted by the authority aforesaid, that as shall and may be lawful for the said inhabitant householders, in manner aforesaid, to choose two fit and proper persons from among the said inhabitants, to serve the office of assessors for the said parish, township, reputed township or place, who shall assess all such rates and taxes as shall be imposed by any act or acts of the legislature of this Province, and be payable by the inhabitants thereof." (Sec. III).

The Constitutional Act 1791 (31 George III, Ch. 31) had authorized the Governor or Lieutenant-Governor to "issue a proclamation dividing such province into districts or counties or circles, and towns or townships, and appointing the limits thereof . . . "

Lieutenant-Governor John Graves Simcoe issued a proclamation that same year establishing 19 counties from Glengarry to Kent and setting their boundaries in order to provide electoral districts for the Legislative Assembly. (38 George III, Ch. 5).

In 1798 further divisions were made. (39 George III, Ch. 5).

It was not until 1817 that the Provincial Legislature found it necessary to concern itself formally with the establishment of local police. In that year an act was passed "to establish a police in the towns of York, Sandwich and Amherstburg. (57 George III, Ch. 2).

This same act also provides that the magistrates "in quarter sessions assembled for the said districts respectively . . . may raise by assessment for property in the said towns respectively, a sum not exceeding one hundred pounds in any one year, for purchasing and keeping in repair, fire engines, ladders, buckets and other utensils for the extinguishing of fires."

imply that the exemptions now in force are somehow or other cheating the municipalities out of their due.

The exemptions are not in fact a concession or grant of the municipality at all and the claim that the municipality is "subsidizing" these institutions is not founded in legal fact. The fact of the matter is that the Provincial Legislature has provided for these exemptions on the basis of a broader public policy, firmly grounded in sound tradition and equity and intimately connected with the common good.

We recognize that these institutions share in the advantages of general public services such as fire protection and police protection. However, the comparatively small additional cost is legally imposed on the municipalities by will of the Provincial Legislature and must be considered as covered in other tax arrangements, for example, the several grants which the Province makes to municipalities.

Even if there were no such grants the cost of services from the municipality are more than absorbed by the genuine contribution to the community made by these institutions which in effect lowers everyone's tax rates. From the beginning up to the present day the Province of Ontario has made it clear through its legislation that it wishes these exemptions to continue.[31]

POTENTIAL REVENUE THROUGH ABOLITION OF EXEMPTIONS

It is not an easy matter to estimate the added revenues which the Ontario municipalities might receive if exemptions were abolished for all churches, voluntary charitable institutions, and private schools. There are inconsistencies in the reporting of tax revenues by municipal clerks. But with the information available and with adjustments to take into account some of the inconsistencies, it is estimated that possible revenue from property tax

31. It has been argued by some who recognize the valuable contribution to the community made by the churches, charitable and educational institutions that they should pay taxes but be reimbursed by individual grants from the Provincial government. Such a procedure, it is alleged, would be more equitable even for the institutions themselves since the Provincial government could make the grants on the basis of need and service to the community. Entirely apart from the expensive and complicated administrative problems such a plan would entail, who does not see that it would place in the hands of a few government officials a power of control, interference and discrimination in religious affairs which could be or become extremely dangerous and is in fact entirely foreign to our tradition. As Chief Justice Marshall of the U.S. Supreme Court once pointed out, "the power to tax involves the power to destroy" (McCullough v. Maryland, 1819, cf. 4 Wheaton, 316).

    If there is any question of grants it would be far easier from the administrative point of view and far less expensive to make the grants directly to the municipalities. It would also be far better from the standpoint of public policy and a sound social philosophy. However, on a basis of strict logic whatever grants-in-aid there may be to the municipalities they cannot be looked upon as compensatory grants for exemptions because the municipalities have never had any claim which entitled them to compensation.

on all churches, all non-government hospitals, and other private non-profit welfare, charitable, and educational institutions would amount to approximately $25,000,000 a year in the Province of Ontario. [32]

Twenty-five million dollars is not, to be sure, a negligible sum: but then neither are the tax-saving contributions of the churches, charitable institutions, and private schools. For example, the direct cash-value of contributions of the independent schools and institutions drawing support from the Community Fund of Greater Toronto by themselves more than equal that sum.

When considering this sum of $25 million the following points should be carefully noted:

(1) The figure does not either in law or in fact represent a diminution of municipal revenues. The property of these institutions is not, never was and, we submit, never should be handed over to the municipalities as a source of tax revenue.

We could make out some rather startling figures to show how much the community is "losing" and how many millions could be added to revenue by abolishing the exemptions in the lower income brackets. But production of such figures is in itself no argument whatsoever for doing away with the exemptions. As everyone knows such a policy could create more problems than it solves.

(2) Accordingly, if there is question of making comparisons and viewing the true significance of the figure of $25 million, we should face the fact that the taxpayers of the Province have to provide revenue for both the Provincial and municipal governments; that the inter-relationship of provincial and municipal figures is such that an exemption in either area, since the same taxpayers by and large foot the bill, should be looked at in relation to the total tax load, that is to say the total revenue from all sources. This would include Federal grants to the Province or the municipalities because they are in effect a return of taxes collected by the Federal government from the taxpayers of Ontario, now returned for the purposes of provincial and local government.[33]

(3) Churches, charitable institutions and private schools do pay a variety of indirect taxes and, of course, they pay the direct charges for improve-

32. An extended comment on this figure it attached to our brief as *Appendix III.*

33. In the year ended Dec. 31, 1962, Ontario municipalities received total revenues, including all locally levied taxes and grants in lieu of taxes, amounting to $689,860,000. (*Annual Report of Municipal Statistics,* 1962, Ontario Department of Municipal Affairs, p. IX).

For the year ended March 31, 1963, the Province of Ontario's net revenue amounted to an estimated $985,303,000 (*Interim Statement of Ordinary Revenue for Fiscal Year, April 1, 1962 to March 31, 1963,* Provincial Treasurer's Office, Toronto, p. 40). This does not include money borrowed by the Province for major expenditures.

The total revenues, then, for both levels of government in Ontario is $1,675,-163,000. The increased revenue that would be obtained by taxation of all exempt non-government property at the average rates in the Province for 1962 would amount to approximately 1.5% of that figure.

ments directly affecting their property. It need not be denied that they benefit from the general services such as fire and police protection which are provided for the whole community when they have need of them. But it has been our contention that:

(a) the genuine service of these institutions to the community greatly exceeds whatever service the community might be called upon to give these institutions;

(b) even if this were not so, the Provincial Government assumes the responsibility for the exemptions as part of its public policy and the various grants and aids given by the Province to the municipalities must be assumed to cover the cost of the services. The Province clearly desires its dependent municipalities to render such services to these institutions.

Here, then, we content ourselves with pointing out, in conclusion, that if the exemptions were abolished this sum of $25 million:

(a) would be taken from institutions which are already contributing a great deal more than this amount in direct aid and valuable services to the community;

(b) would be taken from these institutions which are already saving taxpayers a far greater amount than would be derived from the property tax;

(c) would be taken from institutions which are not engaged in the production of economic income;

(d) would be taken from institutions which are prime supporters of the principle of private enterprise and of the maintenance of a climate of freedom and respect for human rights.

We contend that if the beneficial action of these institutions on the community is restricted by the burden of taxation it would be contrary to the demands of the common good. It would tend, with gradual insistent force, to draw under government control a still greater proportion of the free institutions of our society and notably those which are most intimately associated with the dignity and freedom of the human person.

Finally, it would inaugurate a trend that, if continued, would ultimately place religious and religious-affiliated institutions at the mercy of the state. We believe that it is incontestably in the best interests of our society to resist this thin edge of the wedge which in itself could prepare the way for possible violation of religious freedom and freedom of conscience.

NO PROPORTIONATE VALUE TO THE MUNICIPALITIES IN THE SOLUTION OF THEIR PROBLEMS

Moreover the problems of the municipalities are so great that an additional revenue of $25 million for the entire Province of Ontario from cancellation of exemptions, even if it did not involve the great hazards already outlined, would remain an inadequate and relatively unsubstantial aid. The whole

problem has to be thought out in terms of far greater revenues not from the saturated property tax but from other sources not now available, through new and imaginative arrangements with the Provincial and Federal Governments. The property tax is no longer a realistic gauge of ability to pay.

It is worthy of note that, in the meeting between the representatives of the Canadian Federation of Mayors and Municipalities and representatives of the Dominion Government held in Ottawa in 1958, no mention was made of cancellation of religious, charitable, and educational exemptions as even a partial solution to the pressing needs of the municipalities. Nine urgent problem areas were proposed for future discussion, ranging from the problems of railway level crossings to exemption of municipal purchases from the federal sales tax.[34]

Mayor H. G. R. Mews of St. John, N.B., President of the Federation, sketched the mammoth task facing the municipalities today because of the vast changes that have taken place in the Canadian economy, the rapid urbanization of our country and the development in social attitudes of our people. These changes could not have been envisaged at the time of Confederation.

> "Since 1945, and increasingly with every passing year the pressures for urgent and costly programs of local improvements and facilities have continued to mount. Municipal governments — within the limits of their financial capacity — have done their best to meet the need for such requirements. But the projects that have been carried out even though of major proportions are small compared to the magnitude of the things that will have to be done if we are to provide our communities with the kind of facilities which a modern economy requires. Until we do that, our obsolescent, outmoded, and congested urban centres will inevitably be a drag on the general economic progress of the nation as a whole.
>
> " . . . The restricted and inflexible nature of the main source of municipal revenue — property tax — together with the present level of debt obligations of most municipalities, preclude them from undertaking, solely on the strength of their own financial capacity, debt obligations of the magnitude which such undertakings will require. . . .
>
> "As a matter of national policy it has already been recognized, in principle and in degree, that the financial resources of the Federal Government should be brought to bear on some segments of the growth and development problems of urban municipalities . . .
>
> "Certain it is that the needs and requirements of municipalities throughout the nation are great. The gaps must be filled. As a nation we must create a national program that contributes to the revitalization of our urban centres. They represent a tremendous investment in

34. *Dominion Government and Canadian Municipalities Informal Conference,* Oct. 6, 1958, Queen's Printer, Ottawa, 1958.

social capital: streets, waterworks, sewers, schools, and other structures both public and private. The efficient utilization of this investment requires adequate maintenance, modernization, and expansion.

" . . . Changing conditions give rise to new and expanded governmental activities and these, in turn, necessitate close inter-governmental collaboration and, to the extent necessary in a Federal system, appropriate inter-governmental fiscal adjustments."[35]

The main points of Mayor Mews' remarks are pertinent to our present brief for they underline the fact that property tax is no longer adequate to meet the new and mounting needs of the municipalities. An attempt to draw more revenue from property by the cancellation of the exemptions seems to us to be perpetuating the myth that the municipalities must by their very nature continue to supply their revenue needs almost solely from property taxes. There is no necessary, inevitable, or hallowed connection between municipalities and the property tax.

INDIRECT CONTRIBUTIONS OF THE CHURCHES

The contribution of religion and the church to society cannot easily be measured in terms of dollars and cents. The main concern of the church is and must always be for the spiritual and eternal welfare of man. Nonetheless, the salutary effect of religion and the churches on temporal and civil well-being in a free society must be evident to any thinking man. Perhaps this idea has never been better expressed by a political figure than in those well-known words in the farewell address of the first President of the American Republic:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. . . . Reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle."

Freedom, equality, human dignity, the stable family, and the basic principles supporting our constitutional democracy in Canada and in Ontario have their deepest roots in religion. Religion supplies the foundation of all law and authority, without which there is only the choice between social chaos and the slave state.

Who can doubt that if all the churches were to close down the taxpayers' burden for operating the criminal courts, homes of correction for youth, penitentiaries, and similar institutions would be enormously increased. In the Province of Ontario the estimate of the taxpayers' bill for reform institutions in 1963 ran to $19,696,000,[36] with $17,400,000[37] for the maintenance of the Ontario Provincial Police. The Ontario taxpayer also helps to

35. *ibid.* p. 17 et seq.

36. *Estimates of Ordinary Expenditures and Capital Disbursements of the Province of Ontario,* Queen's Printer, Toronto, 1963, p. 107.

37. *ibid.* p. 15.

foot the bill for the $30,748,000 paid out for federal penitentiaries[38] and $63,441,179 for the Royal Canadian Mounted Police.[39]

Is it wise policy, or even just, to restrict the work of the churches with their constant insistence on respect for, and obedience to the law of God and the just laws of men by lessening through tax burdens their always inadequate resources for the vital services they render to the citizens of our Province? Past ages have said that it is neither prudent nor just and have recorded their conviction in the laws of the land.

DIRECT CONTRIBUTION OF THE CHURCHES

In additional to the general influence of the churches on public and private morality which is so essential to the temporal welfare of a free society, there is not a single church that fails to make a genuine contribution to the community through its charitable, social, and recreational organizations and programs. Accurate statistics are not at present available but it requires no stretch of the imagination to realize that the churches annually channel substantial private resources and voluntary personal services into social and welfare projects that render a great service to the community.[40] The monetary value of such services represents a genuine relief for taxpayers including those who do not belong to any church.

CONTRIBUTION OF CHARITABLE ORGANIZATIONS

In a paper delivered to the First Biennial Meeting of the Catholic Charities Council of Canada, October 19, 1963, The Honourable M. Wallace McCutcheon, Q.C., sketched for his audience the reasons for the great expansion of the social welfare agencies which serve the modern urban community.

> "I start with the assumption that our welfare programs, public and private, are the inevitable result of the rapid industrialization that has taken place in this country and the change from a preponderantly rural to a preponderantly urban civilization. . . .
>
> " . . . One hundred years ago in Canada, as it then was, families

38. *Federal Estimates for 1963-64,* Queen's Printer, Ottawa, p. 163.

39. *ibid.* p. 374.

40. For example, the most recently established church-supported welfare institution in Toronto is the Good Shepherd Refuge. The Roman Catholic Archdiocese of Toronto paid $185,000 to set up this institution and guarantees to meet the annual deficit. In this refuge, abandoned and homeless men who would clearly be a charge on the municipality are fed, cleaned, and housed. The annual budget of $30,000 to be drawn from voluntary sources and guaranteed by the Archdiocese does not take into account the donations of food and services that defy precise statistical presentation. During its first seven months of operation the refuge gave without any charge 73,000 meals to homeless drifting men, called transients, and provided a bed and a chance to clean up to these men 7,404 times. As a token of its recognition of the value of this organization to the community, the Corporation of Metropolitan Toronto made a grant-in-aid of $40,000 at the opening ceremonies.

> could get along with very little help. Risks and hardships there were of course and some poverty, but they were usually met with the help of relatives and friendly neighbours or, in extreme cases, through assistance from the parish or the local community. Now in our cities the family is smaller, a father-mother-children family, moved away from grandparents, uncles and aunts, completely dependent on the pay cheque or pay envelope, and therefore vulnerable. Removed from the beauty and physical adventure of nature, doing often tedious work, confused by changing parental roles as mother goes out to work and father, too, dons an apron, giving greater freedom and sometimes license to children, surrendering more of its functions to institutions, and challenged by the need of greater skills and knowledge, the modern family is liable to emotional disturbance, mental illness, marital conflict, parent-child tensions, and the other ills which stem from these. At best the family that does not show these strains requires recreational and other supporting services in a highly interdependent society."[41]

The main point of Senator McCutcheon's remarks is that these social welfare services are not a luxury but an imperative necessity in the urban-industrial society of today. To neglect them would be to invite serious consequences even in the area of efficient economy.

Part of these services is carried on by government agencies and part by private agencies. The private agencies in view of their services to the community have been exempt from property taxes. Any proposal to remove this exemption would, in our opinion, be clearly contrary to the common good. The increased cost of operation due to the imposition of municipal taxation on properties thus far exempt would bring about a corresponding reduction in the beneficial and necessary work provided by the institutions. This work would have to be done at public, tax-supported expense and eventually at greater aggregate cost than when it was done by the institutions.

The original capital investment in land and buildings and equipment of the private agencies has for the most part been drawn from private sources. Moreover the current costs of their services are largely borne by private subscription. If the services they offer are necessary and would have to be undertaken by government in default of private initiative then they clearly represent a huge saving to the taxpayer. Voluntary donations are drawn into the service of public purposes and taxpayers, including those who subscribe to no religion, are benefited by lower rates.

SIZE OF THE CONTRIBUTION

Although studies are in progress, accurate statistics indicating the magnitude of the financial contribution of the private charitable and welfare organizations are not yet available.

41. Proceedings, 1963 Meeting, Catholic Charities Council of Canada, Ottawa.

We can, however, gain some idea of the scale of voluntary contributions by taking as an example the work of the United Community Fund of Greater Toronto.

In the current year, the United Appeal received approximately $10,000,000 in voluntary gifts for the support of Toronto charitable and welfare institutions.[42]

Throughout the coming year these freely donated funds will be spent through eighty-two agencies for the following purposes: Red Cross programs (including blood donor, emergency, and disaster services); family and child welfare (protection of children, foster homes, care of unwed mothers, training of retarded children); health services (care of the aged, arthritic, blind, and disabled either in institutions or at home); rehabilitation of ex-prisoners and those on probation or parole; research and technical programs for the improvement and expansion of welfare work.

Under the Red Cross free blood program during 1962, 77,310 donations were given and 30,000 patients received transfusions. Approximately half of the $2,367,000 budget of the Red Cross was supplied from voluntary sources.

In the same year of 1962 the United Community Fund agencies served in Metropolitan Toronto 21,408 cases for protection of the family; 6,075 children and young folk, not including children served by the two Children's Aid Societies; 9,945 cases of family or individual rehabilitation; 20,636 health patients including 16,504 visits from five visiting nurse organizations; 3,314 aged persons.

During 1962 monthly average attendance in recreational-educational activities of private welfare agencies amounted to more than 260,000. In addition 4,156 youngsters, mothers, and aged persons attended camps that summer.

VOLUNTARY FINANCING MULTIPLIES ITSELF

Voluntary support is less expensive and produces more value for each dollar of cost. Every voluntary contribution of $10 purchases $50 worth of services according to the estimate of Dr. Harvey Cruickshank in a statement made during the 1960 United Appeal. This would mean that the $10 million collected in 1963 would amount to a contribution of $50 million to community welfare in the Toronto Metropolitan area. Whether or not Dr. Cruickshank's figures could be substantiated by a precise analysis (and there are those who feel that they are on the very conservative side) the fact must be quite obvious that the freely donated services of some 37,000[43]

42. This does not include the extensive work of the Salvation Army and a few other organizations which work independently of the United Community Fund and draw no support from it. In 1960, four major non-Fund organizations raised a total of $4,200,000.

43. Figure supplied by Mr. John H. Yerger, Executive Director and Secretary of the United Community Fund of Greater Toronto.

workers connected with the voluntary agencies in Metropolitan Toronto represent an enormous contribution to the community.

To tax the property of such agencies would certainly discriminate against those citizens who are already contributing more than their non-participating brethren, would be in effect to make the volunteer pay a cash amount for the privilege of continuing to volunteer.

It hardly seems necessary to continue this argument. Yet there is a point of equal or perhaps greater importance. The private charitable agencies enable a great number of citizens of the Province of Ontario to share freely and by choice rather than compulsion in the exercise of responsibility in face of the demands of justice and charity in their communities. This type of responsibility should be encouraged if we wish to maintain the climate of a free and vigourous society.

Today the problems engendered by the complexities of modern social arrangements justify an increased participation of the state in supplementing private initiative in the field of social welfare. Yet the principle of subsidiary function outlined at the beginning of this brief calls for a genuine concern on the part of the state to foster and encourage the non-governmental agencies engaged in welfare work.

At times a fruitful cooperation by the government with such private agencies can supply for their deficiencies without at the same time absorbing them into the departments of the state.

A remarkable study by the General Committee of the Social Planning Council of Metropolitan Toronto, published in December 1963 bears out this point.[44] The two-year study was itself an example of such cooperation as it was jointly financed by the Corporation of Metropolitan Toronto, The Atkinson Foundation and the United Community Fund.

As a result of its lengthy deliberations the Committee had this to say about the voluntary organizations:

> "Throughout the Study, the importance of good quality of service in both government and voluntary organizations, and the importance of preserving the role of the volunteer in this field were recognized . . . The Committee is concerned that, in any rearrangement of work, the importance of the voluntary effort be safeguarded and developed to an even greater extent than at present."[45]

The extensive survey of needs and resources in the Toronto community led the committee to the following conclusion:

> " . . . the Committee believes it is important to protect the right and opportunity of the various religious and cultural groups to provide welfare services of acceptable quality to those who find such services more welcome than if given by the general community agencies.
>
> "Because of the growing gap between needs and resources and the

44. *A Study of Needs and Resources,* Social Planning Council of Metropolitan Toronto, 1963.

45. *ibid.* p. 71, 72.

> urgent immediate need for the provision of some of the basic services to families and youth in the outlying districts, the Committee suggests that major expansion of the services at this particular time should be under the auspices of community agencies whose boards of directors are representative of major religious and other interested groups in the community. The Committee further suggests that any community welfare service should establish effective referral procedures and working arrangements with the various cultural and religious communities to ensure that persons seeking help have religious counselling when this is needed and desired."[46]

The voluntary efforts of which the Social Planning Council speaks represent a most healthy alternative, or at least complement, to compulsory contributions through increased taxation. A state monopoly of services which touch so intimately on the rights and sanctity of the human person would be thoroughly inconsistent with the social conscience of Canadians. It is imperative that we keep a sector of private and personal initiative in the field of charity and social welfare in line with the social principles we have endeavoured to place before your committee in the first part of our brief.

We do not deny the right of the state to see to reasonable norms of efficiency in line with developing scientific and social knowledge. We do say that it would be a tragedy to engage in a tax policy that would in effect endanger the continued existence of this area of private initiative in the interest of the common good of society.

INDEPENDENT PRIVATE SCHOOLS

The argument has been made that tax exemption for private schools which are *in competition with the tax supported public schools* is illogical. The exact opposite seems to us to be the truth. If the private non-profit schools were to close down (or if their number were reduced or their future growth restricted) it would add to the annual education bill of the Province and consequently place an additional burden on all taxpayers.

We believe that it is not necessary for us to expand on the brief presented to your committee by the Independent Secondary Schools of Ontario with which we concur. It is clear from that brief that the private schools are making an annual contribution to the community of over $17,000,000 and saving the taxpayers of the Province this amount.

The insinuation that private high schools are in some way harmful to the public high school system or that they are not conferring a great benefit on the community seems to us to be entirely unfounded.

46. *ibid.* p. 75.

CONCLUSION

We wish, finally, to thank the Ontario Committee on Taxation for the consideration they have given to this brief. We have been motivated throughout by a genuine concern for the overall welfare of all the citizens of Ontario. We cannot conceive that an additional tax burden on institutions which are not in the business of making profits for themselves but uniquely dedicated to public service in one form or another could be in the best interests of the community. It would surely be shortsighted to punch a hole in the pail that is carrying your water. In like manner the exaction of taxes on the property of religious, charitable, and non-profit private educational institutions would reduce their capacity to make their important contributions to the common good.

APPENDIX I

ONTARIO PROVINCE COMMISSION ON MUNICIPAL TAXATION — 1893 ON "EXEMPTION OF PROPERTY"

Very much has been said and written about the exemptions of certain properties in cities and towns from taxation, and many who feel the burden of taxation particularly grievous imagine that if all exemptions were done away with they would be greatly relieved. This opinion is based largely upon those statements of the assessed value of real property subject to taxation, and of real property exempt from taxation, which are published from time to time. According to these statements the value of properties exempt is from one-eighth to one-sixth of the value of the properties taxed or even more.

An analysis of any of these statements given in detail shows that a very large part of the exempted property belongs to the cities and towns. Parks, gardens, squares, city hall, police court, police stations, fire department stations, marketplaces and buildings, registry offices, school houses, and all other buildings owned and maintained by a city are included in the list of exemptions and form a very large part of the whole. To tax these would be ridiculously absurd and would lead to no other result than a considerable increase in the amount and cost of assessment and of the city book-keeping.

County buildings are generally located in the cities and towns, and in some cases are used conjointly by city and county. The city of Toronto would not gain much by imposing a tax on the court house and gaol and paying the greater part of the tax itself.

Under our system, charitable institutions are not sustained by the municipalities. Some are provincial, and to the support of others the Provinces and the municipalities contribute. The buildings occupied by such institutions are usually large and the grounds attached are in some cases valuable. We do not know what would be the value for purposes of assessment of the General Hospital, St. Michael's Hospital, the Hospital for Sick Children, the House of Providence, the Home for Incurables, the House of Industry, Houses of Refuge, Reformatory Schools, and the other institutions of this kind in Toronto, but it would be large. To impose a tax upon those institutions would be equivalent to a reduction of the amount contributed to their support by the municipality. The ability of the institutions to do the work which they have undertaken to do — for the public — would be lessened to the extent of such taxation, and few of them now receive from all sources as much as they need. Would it be wise — not to say Christian or humane — to change the law so that a larger amount of poverty and suffering must go unrelieved? Would it not be absurd to tax those institutions according to their value, and at the same time to increase the amounts paid to them by the municipalities so that their resources should not be impaired — as some propose?

Some complain that educational establishments, unconnected with the provincial school system, are exempted from taxation. These institutions do a large and important work which, if it were not done by them, must be done by the municipalities at a cost that would greatly exceed the amount which could be collected as taxes from the properties they occupy. A fair calculation would prove conclusively that because of the existence and the work of these institutions the ratepayers are much relieved. Some do contend, however, that no consideration should be had for those who are not satisfied with the public school system, and that private schools should be discouraged even though the burden of taxation be much increased. Such persons insist that even the university should be taxed on its buildings and lands, because although it is a public institution and largely under the control of the Provincial Government it is not a

municipal institution, and many of the students who receive an education there come from other parts of the Province.

Other large portions of exempted property belong to the Dominion and Provincial Governments. All municipalities desire that the governments should put up buildings within their boundaries, and that those buildings should be ornamental and therefore expensive. Would it be just or politic that such buildings, when erected, should be taxed as buildings used for private purposes? Were such a policy followed would not governments erect only the plainest and least expensive buildings? Toronto, desirous of having a handsome legislative building, gave to the Provincial Government a magnificent site free of cost. Would it be right now to tax that building? Ottawa was little more than a lumbering village until it became the seat of the Dominion Government, yet there is much grumbling because the government buildings are exempt from taxation. In Great Britain, for some years past, the government pays a portion of the borough and other rates corresponding, we believe, to the estimated value of the services rendered to national property by the municipalities, and to this no objection is made because it is regarded as an equitable arrangement.

Public libraries, museums, art galleries and buildings for the use of scientific and literary societies, and of agricultural societies, from which no private profit is derived, are usually exempt from taxation, being regarded as essentially of a public character, even when nominally owned and controlled by private associations or corporations. Even buildings, such as these, some would tax at their full value unless, perhaps, where they are owned by the municipalities.

Churches, and all other places of religious worship, and the land on which they stand, have always been exempt from taxation, and they are exempt everywhere now except in the State of California. In feudal times bishops, abbots, and other ecclesiastics, were required to render defensive military service to the King for the lands they held as tenants in capite; and when subsidies and aids were demanded the clergy as a body contributed a full share. But churches, hospitals, and other buildings devoted to the service of God as places of worship, or charitable institutions, or to educational purposes, never were taxed on the principle that what was directly dedicated to God's work should not be made tributary to the wants of man. This principle operates in all English legislation relating to this subject. An English Act of 1656 exempted, besides churches, hospitals, alms-houses and educational establishments, all the masters, fellows and scholars of universities and colleges, and the ministers of hospitals, and also the houses and lands belonging to hospitals in respect of rent or revenue payable to them and disbursed for the immediate relief of the poor. For some time after the restoration no account was taken of the churches and chapels of dissenters but an Act, 3 & 4 William 4, chap. 30, provided that all "churches, chapels, meeting-houses and premises duly certified for the performance of religious worship" should be exempt from taxation. The Irish Poor Law Act exempts churches and other buildings exclusively devoted to religious worship or to the education of the poor, burial grounds, infirmaries, hospitals and all buildings used for charitable purposes from taxation for poor law purposes. The law which imposes the income tax in Great Britain exempts from income the lands held in trust for charitable purposes. In other countries of Europe the same principle still prevails. In France, which does not allow even the name of God to appear in its public school books, the churches are treated as public property and are repaired and maintained at the expense of the State.

Those who are not influenced by religious considerations differ as to the propriety of taxing churches. Some contend that if people choose to have fine churches they should pay for them and should not ask the public to contribute directly or indirectly towards the cost of them. It is unjust, they argue, to compel those who do not belong to such churches to pay part of the taxes which

they should bear as taxes are borne by other properties. Others say that it is advantageous to a city to have handsome churches which do much to cultivate artistic tastes and to attract visitors; and beautiful churches may not be built if the congregation must pay, not only the first cost of such beauty but a heavy tax on it ever after. Others argue that all denominations now strive to build large and beautiful churches, and the people of a city or town nearly all belong to some of the denominations, and nearly all go to church, they all share pretty much alike in benefit of their exemption from taxation. It is contended on the other hand that if churches were taxed all the members of every denomination would be taxed in proportion to their means and no injustice would be done to anyone. It is pretty generally understood, however, that few churches possess or raise a revenue in excess of their urgent needs, that many are in difficulties and that a large proportion of every congregation contributes little for church purposes. A tax on the full value of the church would, in most cases, be felt as a heavy burden, and there is but one denomination, we believe, that objects to exemption. If there are any in the community who belong to no religion, who never go to any place of worship, never allow any members of the family to take part in public religious worship, and who pay rates, such persons may claim to be relieved from the payment of such portion of their taxes as they would not be required to pay if churches were taxed, and their claim should receive due consideration. Except these, however, no one seems to suffer because churches are exempt. Others there are who, viewing this question from what they call the broad grounds of public policy, say that churches should be exempt from taxation as educational institutions should be exempt, because of the service they render to the community. Dr. Ely, in his work, says:

> "If it promotes the general welfare to exempt church buildings from taxation it is perfectly proper to do so. There are two questions to be asked: Do churches promote the intellectual, moral and economic interest of the people? Will they be aided in their work by the exemption of the property used purely for religious purposes from taxation? All States except California answer both of these questions in the affirmative."

The amendment of the Ontario Assessment Act, which makes "the land on which a place of worship is erected and land used in connection with a place of worship", and "the buildings and grounds of and attached to a university, college or other incorporated seminary of learning", liable to be assessed in the same manner and to the same extent as other land is assessed for local improvements, reduces very materially the extent to which such lands and buildings are exempt.

The only property in any city or town now wholly exempt from municipal taxation from which, by any change of law, much money could be got for municipal purposes is that belonging to the Dominion Government, to the Provincial Government, that belonging exclusively to the counties, and that belonging to charitable institutions wholly supported by public benevolence.

T. W. ANGLIN.

APPENDIX II

"THE CALIFORNIA CASE"

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1956 — No. 473

Paul W. Heisey, Appellant, vs. County of Alameda; City of Oakland; Russell C. Horstmann, as County Assessor of Alameda County; Roger Coit, as County Treasurer of Alameda County; Edwin Meese, Jr., as County Tax Collector of Alameda County; Chester Stanley as Chairman of the Board of Supervisors of Alameda County; Clifford Rishell, as Mayor of the City of Oakland; The Roman Catholic Welfare Corporation of San Francisco, Intervenor, Appellees.

Motion to Dismiss Appeal and Supporting Brief.

Andrew F. Burke, Attorney for the Roman Catholic Welfare Corporation of San Francisco, a (California) corporation, Intervenor-Appellee.

The history of tax exemptions to churches, religious schools and religious organizations generally, particularly in its relation to the religion provisions in State Constitutions is potent evidence that such exemptions have never been regarded as unlawful aids to religion.

a) Tax exemption was granted to churches and religious schools by the colonies, and by certain states prior to the adoption of the First Amendment, and has been granted by other states and by the Federal Government since shortly after the adoption of the First Amendment and has always been recognized as a legitimate and proper exercise of legislative power. Therefore, (in the absence of specific language evidencing a contrary intent — and there is none such) a tax exemption should not be considered as being within the philosophy or purpose of the prohibition of laws "respecting an establishment of religion" contained in the First Amendment.

In its opinion in the instant case the Supreme Court of California said (298 P.2d 1, at p. 7):

> "The practice of granting tax exemptions benefiting religious sects began in the colonial period. See Paulsen, Preferment of Religious Institutions in Tax and Labor Legislation (1949), 14 Law and Contemp. Prob. 144, 147-148; Torpey, Judicial Doctrines of Religious Rights in America (1948), ch. VI, pp. 171-174; Zollman, Tax Exemptions of American Church Property (1916) 14 Mich. L. Rev. 646, 647-650. Today, at least some tax exemption is authorized by statutory or constitutional provisions in every state and the District of Columbia, as well as by federal law. See Note (1949) 49 Columb. L. Rev. 968, 969-982."

Indeed, tax exemption for religious institutions has always existed in America. In the days of religious establishments in our country not only was the established church exempt from taxes, but the tax exemption was supplemented by tax assessments for religious purposes and for the support of the clergy. And despite the "disestablishment" of the churches after the War of Independence tax exemption to churches and religious institutions has continued to exist.

See: Franklin Street Society v. Manchester, 60 N.H. 342, 347-8 (1880). Adler, Historical Origin of the Exemption from Taxation of Charitable Institutions, etc. (1922) at p. 74.

Tax exemptions existed even in the absence of formal constitutional or statutory provisions authorizing it.

As pointed out in State v. Collector of Jersey City, 24 N.J. Law 108, 120 (1853): "Meeting houses and school houses although not formally exempted by the tax laws in force prior to 1851 were seldom if ever assessed in any part of the state."

In fact, as just indicated, the first formal exemption of religious institutions in New Jersey was made by statute in 1851. Massachusetts which always allowed exemption, provided no constitutional or statutory authority for exemption until 1837, nor did New Hampshire until 1842 (Zollman, American Church Law, 1933, pp. 329-30).

As said in State v. Collector of Jersey City, supra, p. 120, it was "so entirely in accord with the public sentiment, that it universally prevailed."

At the present time in more than two-thirds of the states the exemption is provided by self-executing constitutional provisions (Torpey, Judicial Doctrines of Religious Rights in America, 1948, p. 173). In other states, the tax exemption is provided by statutes enacted pursuant to constitutional authority.

If ever history afforded a basis for the proper construction of a statute or constitutional provision, the centuries old history of tax exemptions to churches, religious schools and religious organizations in our country furnishes such a construction for the "establishment of religion" clause of the First Amendment and demonstrates that it was never intended that tax exemption to churches or religious institutions should be within its ban.

b) Exemptions from taxes have never been regarded as *grants* of *public* property, within the operation of state constitutional provisions, similar in form or substance to the "establishment of religion" clause of the First Amendment or state constitutional provisions, which prohibit *grants* of *public* property to *sectarian* organizations or for *sectarian* purposes nor as compulsory "support" by citizens of churches of which they were not members, contrary to constitutional provisions prohibiting such compulsory support.

After the Declaration of Independence, most of the colonies or states adopted constitutional provisions similar in form or substance to the religion clause of the First Amendment (Constitutions of the United States, John Conrad & Co., Philadelphia, 1804). Some of these Constitutions, in addition, contained provisions which expressly prohibited the compulsion of a citizen to pay for the "support" of a church of which he was not a member. E.g., Art. VI of New Hampshire's Constitution of 1792 (Conrad, p. 2); Art. III of Massachusetts' Constitution of 1780 (Conrad, p. 34), and many others.

As new states came into the Union many of them adopted similar constitutional provisions while others adopted provisions which prohibited grants of aid or of public property to sectarian organizations or for sectarian purposes. Yet it has never been held that tax exemptions granted to either a church, a religious school or any other religious organization, offended against any of these state constitutional provisions.

Virginia was in the van of the colonies which struck down religious establishments. It commenced with its "Bill for Religious Liberty," adopted in 1785 (12 Hening-Stats. of Virginia, 1823) and followed in 1799 by repealing a long list of earlier acts which retained vestiges of establishment (Va. Stats. at Large Shepherds Cont. of Hening, 149). Yet in 1800, Virginia enacted a statute which granted complete tax exemption to all property of "houses for religious worship or seminaries of learning" (p. 200).

The cases in which it has been contended that a tax exemption to a religious institution violated constitutional provisions prohibiting an "establishment of religion" or "support" of a church or aid to a sectarian institution or for a sectarian purpose, fortunately, are few. In the face of the universal practice, from the earliest times, of granting tax exemptions to churches and other religious institutions, few litigants have seen fit to assail the validity of such exemptions. In the few cases in which it has been contended that they are invalid, the decisions of the Courts have upheld them.

See: Garrett Biblical Institute v. Elmhurst State Bank, 331 Ill. 308, 163 N.E. 1 (1928); Trustees of Griswold College v. State of Iowa, 46 Iowa 275 (1877);

Trustees of the Methodist Episcopal Church v. City of Atlanta, 76 Ga. 181 (1886); Baltimore City v. Minister and Trustees of Starr Methodist Protestant Church, 106 Md. 281, 67 A. 261 (1907); Trustees of Kentucky Female Orphan School v. City of Louisville, 100 KY. 470, 36 S.W. 921 (1896).

To the above cases there should be added, of course, the decision of the Supreme Court of California in the instant case. And see, Cooley's Constitutional Limitations, pp. 470-471.

Even Judges who have denied the right of religious schools to share "public benefits" recognize the fact that tax exemptions are in a class apart. In Board of Education of Baltimore County v. Wheat, 174 Md. 314, 199 A. 628 (Ct. of App. 1938) the majority of the Court upheld the validity of a statute authorizing the transportation, at public expense, of children attending private (including parochial) schools. Three judges dissented. However, the dissenting judges made the following observation (199 A. 642):

> "While the point is made, the exemption of certain property of churches and religious societies from the burden of taxation is not relevant to the questions in this record. The exemption is firmly established and is in recognition of the importance of religion to the public welfare. Furthermore, the exemption, in final analysis, takes nothing from the funds which have been raised by taxation and is made uniform so that similar property of all sects and denominations is embraced."

In the "Statement as to Jurisdiction" counsel for appellant contends (pp. 18, 30, 32) that a tax exemption granted to a religious school has the effect of compelling "appellants and others similarly situated" to support a church to which they do not belong and thus violates the "establishment clause" of the First Amendment. However, at the outset of the discussion of the present point, we noted that the constitutions of many states existing at the time of the adoption of the First Amendment contained provisions which expressly forbade forced support of a church by a citizen who is not a member of it. And yet, despite such provisions, these states have always granted tax exemption to churches and religious schools and other religious organizations and have, thereby, affirmed that tax exemptions do not constitute a prohibited "support." Here, again, history effectively points the answer to counsel's argument.

c) If we assume that a tax exemption granted to *religious* schools, *if made for the primary purpose of aiding religion,* would violate the "establishment of religion" clause of the First Amendment, such result cannot properly be claimed for the tax exemption granted by the challenged statute, to *religious* schools, because the *primary* purpose of the exemption (which is granted to *religious* and *non-religious* schools alike) is *not* to aid *religion* but rather to aid *secular education* and, thus, to promote the "general welfare."

In its opinion in the instant case the Supreme Court of California said (298 P. 2d 1, p. 7): "It is apparent that the exemption was enacted to promote the general welfare through encouraging the education of the young and not to favor religion, since it is not limited to schools maintained by religious groups but applies also to those operated by other charitable organizations. Under the circumstances, any benefit received by religious denominations is merely incidental to the achievement of the public purpose."

It cannot be emphasized too strongly that so-called religious schools are not special or preferred objects of the exemption granted by the challenged statute. In fact, the statute contains no reference to religious schools or schools in which religion is taught. The exemption is a broad one granted to all private non-profit schools of less than collegiate grade, which meet the state's requirements in respect of secular education.

APPENDIX III

ASSESSED VALUE OF TAX EXEMPT NON-GOVERNMENT PROPERTY IN ONTARIO, 1962

Official statistics relating to assessed value of tax-exempt property in Ontario municipalities are reported annually in the municipal Clerks' Returns under four headings: a) Federal Govt., b) Provincial Govt., c) Municipal and other Local Govt., d) Non-government. These data are subsequently summarized and published in the Annual Report of Statistics of the Department of Municipal Affairs. Similar headings are employed in the latter Report with the exception of the fourth classification, "Non-Government" which is reported as "Educational, Religious and Charitable." It is with this classification shown in the Clerks' Return as "Non-Government" and in the Department's Report as "Educational, Religious and Charitable" that our discussion is concerned.

Before examining the data, however, it seems appropriate to sound a note of caution as to their completeness and accuracy. Difficulties arise because of variation in assessment and reporting practices among municipalities, especially with respect to exempt properties classified as "Non-Government." This statement is intended in no way to constitute a criticism of reporting practices but solely to draw attention to certain problems in the use of the data. For example, an examination of a number of Clerks' Returns will reveal that school properties, including separate school property, will variously be reported under "Municipal Government" or under "Non-Government" with resulting distortion in the aggregate amounts ascribed to each classification. Again, most universities in the Province are assessed as "Non-Government" with the exception of the University of Toronto and its affiliated colleges which are assessed as "Provincial Government" property. The University of one of the Province's largest cities is evidently assessed as a "Religious Institution" although it could not properly be so designated. Considerable variation also exists in the manner of segregating and reporting the assessment of hospitals and charitable and welfare institutions resulting in further distortion in the aggregate. In some cases, no segregation by type of property is attempted, and an aggregate amount only is reported as "Non-Government" assessment.

Although such difficulties as these made strict reliance on the statistics inappropriate, it is nontheless possible to arrive at useful approximations. In the discussion which follows, the major data are taken from the Report of the Department of Municipal Affairs for 1962 with special reference to the classification of tax-exempt property reported as "Educational, Religious, Charitable." These figures are supplemented by direct reference to the Clerks' Returns for the same year for the thirty cities of the Province and for Metropolitan Toronto which together account for approximately 71% of the Province's taxable property and 72% of its non-taxable property. Where the reported statistics have been adjusted to achieve greater consistency or where estimates have been made to round out a classification, this fact is indicated in the text.

The total reported value of assessed property (taxable and non-taxable combined) in Ontario municipalities for 1962 amounted to $12.7 billion. Of this amount, $3.0 billion was attributed to land values (24%); $8.5 billion was attributed to buildings (67%). The balance of $1.2 billion (9%) was accounted for by business assessment. The gross amounts of assessed values noted above include an amount of $1.9 billion or 15.2% of gross assessed value, which was exempt from taxation. The distribution of tax-exempt assessment between land and buildings is shown in Table I below.

TABLE I: *Tax Exempt Assessed Values, Ontario Municipalities, 1962*
(Source: Dept. of Municipal Affairs, Annual Report, 1962)

	Land	*Buildings*	*Business*	*Total*
		(Millions of Dollars)		
Exempt from taxation	$451	$1,487	nil	$1,938
% of gross assessed value	3.5	11.7	—	15.2
% of total exempt value	25.0	75.0	—	100.0

From Table I it can be seen that one quarter of exempt value is accounted for by land, the balance by buildings.

Table II which follows shows the distribution of tax exempt assessment for 1962 among the various kinds of municipality in the Province. It indicates that tax-exempt Federal Government property amounted to 19.1% of total exempt valuations in Ontario, that tax-exempt Provincial Government property amounted to 17.4%, that Municipal and other Local Government tax-exempted assessment amounted to 41.6%, and the fourth category, "Non-Government" amounted to 21.9% of total tax-exempt valuation.

Tax-exempt non-Government property is located to the extent of 23% in Metropolitan Toronto; 50% in the thirty cities of the Province; 14% in the Province's 153 towns, and the balance of 13% in villages, townships and improvement districts.

TABLE II: *Distribution of Tax-exempt Municipal Assessment in Ontario, 1962, by Class of Municipality and Property Ownership*
(Source: Dept. of Municipal Affairs, Annual Report, 1962)

	Metro	*Cities*	*Towns*	*Villages*	*Town-*	*Loc. Imp.*	*Total*
	1	30	153	155	*ships*	*Dist.*	
			(Millions of Dollars)				
$							
Federal	56.5	232.2	25.7	3.0	56.9	0.3	374.6
Provincial	136.5	54.9	17.1	2.0	131.6	0.8	342.9
Municipal	339.5	313.0	92.8	12.7	56.2	3.2	817.4
Non-Govt.	97.1	214.8	62.4	11.4	42.7	2.9	431.3
	629.6	814.9	198.0	29.1	287.4	7.2	1,966.2
%							
Federal	8.9	28.5	13.0	11.2	19.8	4.2	19.1
Provincial	21.7	6.8	8.6	6.8	45.8	11.1	17.4
Municipal	53.9	38.4	46.9	43.3	19.5	44.4	41.6
Non-Govt.	15.5	26.3	31.5	38.7	14.9	40.3	21.9
	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Population	1,596,686	1,849,337	860,128	167,120	1,545,667	29,985	6,048,923
% of Total	26.4	30.6	14.2	2.8	25.5	0.5	100.0

The figures shown above have been compiled without adjustment from the official report of the Department of Municipal Affairs for 1962. To proceed further with the analysis of the "Non-Government" classification, i.e. of the $431.3 million reported as "Educational, Religious and Charitable," it will be necessary to draw directly from the Clerks' Returns and to employ estimates in cases where the incomplete data are provided or where obvious transfers from one classification to another seem essential for the sake of consistency. An examination of the returns for thirty cities and for Metropolitan Toronto, together with estimates of the assessed value of tax exempt property in the remaining municipalities of the Province is set out in the following Table III.

TABLE III: *Tax Exempt Non-Government Property (ESTIMATED) Ontario Municipalities, 1962*
(Source: Dept. of Municipal Affairs Annual Report, 1962, and Clerks' Returns 1962)

	Metro Toronto & 30 Cities (Adjusted)[1]		All Other Municipalities (Estimated)[2]		Total	
	$ Millions	%	$ Millions	%	$ Millions	%
Churches and Religious Institutions	128	41	92	75	220	51
Hospitals (Private)	57	18	13	11	70	16
Universities and Colleges[3]	55	18	—	—	55	13
Charitable and Welfare	25	8	5	4	30	7
Schools (Private)	18	6	7	6	25	6
Other	26	9	5	4	31	7
TOTAL	309	100	122	100	431	100

NOTES TO TABLE III:

1. Main adjustments include estimates of private charitable and welfare assessments where none were reported; estimates of private hospital assessment where this class of property was included in a broader classification; an estimate of the assessment of the University of Windsor apparently classified as a religious institution, and adjustment of the related aggregates; the deletion of separate and other public school property from the classification "Non-Government" and the addition of estimated amounts of private school property assessment in some instances.

   Churches and religious institutions are variously reported as a single entry and as a double entry, and it would be impossible to report them separately in the table above on the basis of the present data. A rough approximation, however, would place the proportion of "Church" assessment somewhere above 75% and perhaps below 85% of the total shown under the heading, "Churches and Religious Institutions."
2. Estimates were based on the following assumptions: a) that Churches and Religious Institutions would likely constitute about 75% of the tax-exempt property assessment of Towns, Villages, Townships and Improvement Districts taken as a group, or $92 million out of a total exempt assessment of $122 million. This ratio compares with a ratio of 41% for the same class of property for Metropolitan Toronto and the Cities of the Province and may be on the high side. The combination of 41% and 75% provides a Province-wide average of 51%; b) that approximately 80% of private hospital and charitable and welfare properties was located in Metro Toronto and the Cities of the Province.
3. Excludes approximately $52 million for the University of Toronto.

Based on the estimates set forth in Table III, Churches and Religious Institutions in the Province account for approximately $220 million of tax-exempt assessment, equivalent to 51% of Non-Government exempt assessment and 1.7% of gross assessed values (taxable and non-taxable) in Ontario. Universities and Colleges, excluding the University of Toronto, account for some $55 million or 13% of the Non-Government classification and equivalent to about 0.5% of gross assessed values in the Province. Private hospitals have an estimated assessed value of approximately $70 million, or 16% of the assessed value of Non-Government exempt property and 0.6% of gross assessed values in the Province. Private Charitable and Welfare institutions have an estimated assessed value of $30 million, constituting 7% of the Non-Government classification and about 0.25% of gross assessed values. The estimated assessment of Private Schools is $25 million which is about 6% of the Non-Government classification and about 0.2% of total assessed values. Other Non-Government tax-exempt assessment, including Cemeteries, Historic Sites, Diplomatic Premises, etc., is estimated at $31 million.

The combined assessments of $431 million of Churches, Religious Institutions, Hospitals, Universities, Private Schools, Charitable and Welfare Institutions and other Non-Government properties represents approximately 3.4% of the gross assessed values in Ontario.

From the discussion above, it might be assumed — for the sake of analysis only — that taxation at the average rates obtaining in the Province for 1962 of approximately 62 mills (or grants in lieu of taxes) on all the Non-Government properties noted above would yield revenues of between $24 and $27 million, equivalent to increased property tax revenues of between 3.5% and 4.0%.

TABLE IV: *Tax Exempt Non-Government Property in TEN Select Ontario Municipalities* (Source: Clerks' Returns, 1962).

Ottawa	*Land*	*Buildings*	*Total*
Churches	1,477,400	8,314,975	9,792,375
Hospitals and Welfare	849,075	11,145,800	11,994,875
Educational Institutions	2,220,900	15,773,775	17,994,675
Diplomatic Premises	810,200	1,713,250	2,523,450
Cemeteries	465,350	102,000	567,350
Exempt by Special Acts	303,225	1,546,049	1,849,274
Total	6,126,150	38,595,849	44,721,999
London			
Miscellaneous and RC Schools	410,940	10,425,600	10,836,540
Charitable and Welfare	278,785	3,796,875	4,075,660
Religious Purposes	561,465	5,838,835	6,400,300
Bethesda Hospital	10,410	52,900	63,310
St. Joseph's Hospital	41,900	1,312,800	1,354,700
Miscellaneous	42,900	29,140	72,040
Total	1,346,400	21,456,150	22,802,550
Owen Sound			
Churches	54,355	535,370	589,725
Y.M.C.A.	1,405	26,430	27,835
Y.W.C.A.	1,435	6,930	8,365
School for Retarded Children	5,040	4,350	9,390
Total	62,235	573,080	635,315
Kingston			
Churches	200,610	1,816,800	2,017,410
Other Religious Institutions	42,750	1,068,370	1,111,120
St. Mary's on the Lake Hospital	30,450	450,115	480,565
Kingston General Hospital	63,760	3,059,490	3,123,250
Hotel Dieu Hospital	47,995	1,262,820	1,310,815
Other Charitable and Welfare	56,095	327,410	383,505
Queen's University	572,965	8,322,095	8,895,060
Regiopolis College	29,850	208,985	238,835
Total	1,044,475	16,516,085	17,560,560
Windsor			
Churches	1,318,813	10,680,996	11,999,809
Hospitals	277,770	5,082,710	5,360,480
Charitable Institutions	197,466	1,152,104	1,349,570
Religious Institutions	398,103	7,891,895	8,289,998
Cemeteries	260,447	11,794	272,241
Hebrew Schools	6,666	27,529	34,195
Jewish Communal Projects	68,137	201,622	269,759
C.N.I.B.	10,224	186,107	196,331
Historical Site	31,046	25,811	56,857
Other	86,262	276,668	362,930
Total	2,654,934	25,537,236	28,192,170

Hamilton	*Land*	*Buildings*	*Total*
Schools	122,690	521,960	644,650
Colleges and Universities	1,068,920	4,907,190	5,976,110
Religious Purposes	1,415,150	12,261,180	13,676,330
Charitable and Welfare	345,160	1,984,470	2,329,630
Hospitals	88,380	1,658,090	1,746,470
Miscellaneous	156,100	5,000	161,100
Total	3,196,400	21,337,890	24,534,290
Waterloo			
Churches	93,315	576,590	669,905
Colleges and University	164,515	3,202,895	3,367,410
Total	257,830	3,779,485	4,037,315
Peterborough			
Private Schools	11,900	116,730	128,630
Charitable and Welfare	2,400	492,180	494,580
Religious Purposes	144,320	1,915,720	2,060,040
Cemeteries	64,170	13,030	77,200
County Buildings	39,440	176,590	216,030
Total	262,230	2,714,250	2,976,480
Sudbury			
Schools	483,890	5,257,440	5,741,330
Seminary of Learning	170,920	1,024,945	1,195,865
University	68,340	117,990	186,330
Hospitals	205,805	2,717,595	2,923,400
Charitable	90,965	278,925	369,890
Churches	332,225	1,429,830	1,762,055
Cemetery	182,995	7,505	190,500
Home for Aged	22,475	344,000	366,475
Total	1,557,615	11,178,230	12,735,845
Toronto [1]			
Religious Purposes	9,819,860	22,033,530	31,853,390
Charitable and Welfare	1,759,039	4,387,753	6,146,792
Private Schools	2,258,080	2,709,565	4,967,645
Miscellaneous	6,095,371	2,972,233	9,067,604
Total	19,932,350	32,103,081	52,035,431

1. The Clerks' Return for Toronto reports an item "Hospital, Jails and other Welfare Institutions" with a total value of $50,321,483. This category is shown under the heading, "Municipal and Local Govt. Bodies" and seems incorrectly listed under this heading. The bulk of the assessment should be reported under "Non-Government" to be consistent with the reporting of other municipalities and would swell the "Non-Government" exempt assessment of Toronto from $52,035,431 to about $100,000,000.

NOTES:

a) Separate school assessment is normally reported under the category "Municipal and other Local Government Bodies" and NOT under the heading "Charitable, Religious, Educational." There are some exceptions to this approved practice.

b) Private schools, e.g. De La Salle, Branksome Hall, etc., are shown under "Charitable, Religious, Educational."

c) Universities and Colleges are reported under "Charitable, Religious and Educational." An exception is the University of Toronto and affiliated Colleges which are shown under "Provincial Property.

d) Provincial property pays grants in lieu of taxes generally at commercial rates but on a restricted range of assessed values and usually for general purposes only.

e) Ontario Hydro grants in lieu of taxes are paid on a restricted range of assessed values at commercial rates for both general and school purposes.

THE ROMAN CATHOLIC BISHOPS OF ONTARIO

✠ Joseph A. O'Sullivan
Archbishop of Kingston

✠ Philip F. Pocock
Coadjutor Archbishop of Toronto

✠ M. Joseph Lemieux, o.p.
Archbishop of Ottawa

✠ Joseph F. Ryan
Bishop of Hamilton

✠ Henri Belleau, o.m.i.
Bishop of James Bay

✠ Edward A. Jennings
Bishop of Fort William

✠ Rosario Brodeur
Bishop of Alexandria

✠ William J. Smith
Bishop of Pembroke

✠ Benjamin I. Webster
Bishop of Peterborough

✠ Isidore Borecky
Bishop of Eparchy of Toronto

✠ Maxime Tessier
Bishop of Timmins

✠ Louis Levesque
Bishop of Hearst

✠ Thomas J. McCarthy
Bishop of St. Catharines

✠ Alexander Carter
Bishop of Sault Ste. Marie

✠ Francis V. Allen
Auxiliary Bishop of Toronto

✠ Francis A. Marrocco
Auxiliary Bishop of Toronto

✠ Joseph R. Windle
Auxiliary Bishop of Ottawa

✠ G. Emmett Carter
Administrator of London

✠ Jacques Landriault
Auxiliary Bishop of Alexandria

✠ René Audet
Auxiliary Bishop of Ottawa

✠ Norman Gallagher
Bishop for Armed Forces